

---

Corporate Real Estate

# Temporary Relief Measures for Tenants and Landlords, Purchasers and Developers in COVID-19 (Temporary Measures) (Amendment) Act 2020 (Updated 11 August 2020)

## Introduction

The COVID-19 (Temporary Measures) Act 2020 ("**principal Act**") provides for, among other things, targeted and temporary reliefs for individuals and businesses that are unable to perform certain contracts due to the uncertainties brought about by COVID-19.

On 5 June 2020, the COVID-19 (Temporary Measures) (Amendment) Bill 2020 was passed in Parliament. The COVID-19 (Temporary Measures) (Amendment) Act 2020 ("**Amendment Act**") was gazetted and came into force partially on 20 June 2020. The Amendment Act aims to revise the principal Act to provide for, amongst other changes, relief measures relating to tenants and landlords, purchasers and developers, including a framework for rental relief.

On 7 July 2020, the Ministry of Law ("**MinLaw**") released a [note](#) on the rental relief framework to be set out in new Part 2A of the principal Act, providing further details on the entitlement to rental relief and the relevant relief mechanism.

On **31 July 2020**, the provisions in the Amendment Act setting out, the relief measures relating to tenants and landlords, purchasers and developers, the rental relief measures for Small and Medium Enterprises ("**SMEs**") and the statutory limit on the amount of late payment interest and charges for arrears under certain prescribed contracts, came into force. The following subsidiary legislation was issued under the principal Act to supplement these changes and came into force on 31 July 2020:

- COVID-19 (Temporary Measures) (Rental and Related Measures) Regulations 2020 ("**Rental and Related Measures Regulations**"), and

**Contribution Note:** This Client Update was written with contributions from Michelle Tham, Associate, from Corporate Real Estate

---

Corporate Real Estate

- COVID-19 (Temporary Measures) (Temporary Relief for Inability to Perform Contracts) (Amendment No. 2) Regulations 2020 amending the COVID-19 (Temporary Measures) (Temporary Relief for Inability to Perform Contracts) Regulations 2020 ("**Temporary Relief for Inability to Perform Contracts Regulations**").

## COVID-19 (Temporary Measures) (Amendment) Act 2020

Through the previous Budgets and new legislation enacted, the government had provided property tax rebates to landlords and mandated that landlords pass on these rebates to their tenants, which in many cases would have totalled up to over one month's rent.<sup>1</sup> This was discussed in our earlier Client Update titled "[Regulations for Property Owners on Passing on Tax Rebates to Tenants](#)".

Since the previous Budgets, the economy has worsened considerably and uncertainties loom. As such, the Amendment Act is said to be premised on a "fair sharing of obligations" between Government, landlords and tenants, explained the Law Minister, Mr K. Shanmugam, with the aim of salvaging as many viable SME businesses and jobs as possible.

The Amendment Act also contains certain new provisions that seek to safeguard the interests of purchasers as well as developers in new section 13(3)(d) and Part 8 (sections 36 to 39) of the principal Act. Part 8 provides temporary relief for a contract affected by a delay in the performance or breach of a construction (or construction-related) contract or supply (or supply-related) contract caused by COVID-19.

Some provisions in the Amendment Act came into force on 20 June 2020 to introduce changes for enhancing the temporary relief measures for an inability to perform a scheduled contract specified in the principal Act. New section 13(3)(d) came into force on 20 June 2020 together with those provisions, but Part 8 of the principal Act has yet to come into force. For more information on the changes in the Amendment Act that came into force on 20 June 2020, please refer to our earlier Client Update on "[COVID-19 \(Temporary Measures\) Act 2020 Extended to Leases/Rental Agreements for Commercial Equipment and Commercial Vehicles](#)".

In this Update, we highlight the key measures in the principal Act and the various subsidiary legislation relating to tenants and landlords, intending purchasers and developers, as well as the statutory limit on the amount of late payment interest and charges for arrears under certain prescribed contracts.

---

<sup>1</sup> For commercial properties (e.g. shop) which received a 100% property tax rebate, this would have equated to approximately 1.2 months' rent. For industrial and office properties which received a 30% property tax rebate, this would have equated to approximately 0.36 months' rent.

Corporate Real Estate

## A. Measures to Protect Tenants

There are three broad measures to protect tenants:

1. **Rental Relief to SME tenants** – new section 19H of the principal Act covers rental relief ("**Rental Relief**"); and new section 19J of the principal Act covers additional rental relief ("**Additional Rental Relief**");
2. **Statutory Repayment Scheme** – this is covered in new section 19P of the principal Act. This allows tenants to defer their rental payment by electing to pay the outstanding rent (for the period from 1 February 2020 to 19 October 2020 (this period may be extended or shortened by the Law Minister)) in accordance with a statutory repayment schedule. Late interest and penalties will be capped at 3% per annum;<sup>2</sup> and
3. **Rules on Hold over** – covered in new section 7B of the principal Act.

### 1. Rental Relief to SME Tenants

The principal Act had originally granted those who are unable to fulfil their contractual obligations for scheduled contracts set out in the Schedule to the principal Act amidst the COVID-19 outbreak temporary relief for a period not exceeding six months (and as prescribed by the Law Minister).<sup>3</sup> The principal Act had originally prohibited, among other things, (a) the commencement or continuation of an action in court against the tenant, its guarantor or its surety; (b) the termination of a lease in a case of non-payment of rent; and (c) the exercise of a right of re-entry of forfeiture in such instances of non-payment.

The Fortitude Budget, however, is a more substantive intervention in that it grants rental waivers for SME tenants.

Aside from the Rental Relief from the Government (as provided in new section 19H), the principal Act now requires landlords to grant Additional Rental Relief (new section 19J) to SME tenants of non-residential properties who have *suffered significantly* – i.e. suffered a substantial drop in average monthly revenue due to COVID-19 whereby the average monthly revenue from April to May 2020 on an outlet level is reduced by 35% or more, as compared to the same period in year 2019 (i.e. April to May 2019), or alternative periods (this will be elaborated on in greater depth below).<sup>4</sup>

<sup>2</sup> Updated 31 July 2020. See Regulation 40 of the Rental and Related Measures Regulations and MinLaw announcement dated 30 July 2020 on "Commencement of Rental Relief Framework" ("**MinLaw Announcement**"): <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework>

<sup>3</sup> See section 3(1) of the principal Act

<sup>4</sup> See paragraph 3 of Annex A of MinLaw Announcement ("**Annex A**"): <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>

### Corporate Real Estate

#### Eligibility of SME Tenants for Rental Relief / Additional Rental Relief

There are four broad conditions for a SME tenant to qualify for Rental Relief and Additional Rental Relief:

- (a) The property must be a "prescribed property", which is defined in the principal Act as any prescribed non-residential property or any property belonging to a prescribed class of non-residential property and includes any part of such property.<sup>5</sup>
- (b) A qualifying SME tenant (referred to as "**PTO**" or "prescribed tenant-occupier" in the principal Act) should not have more than S\$100 million in (i) annual revenue where the tenant has carried on business (at the prescribed property or any other place) for 12 months or longer as at the last day of the tenant's financial year ("**FY**") ending on a date in the year 2018; or (ii) a later appropriate period ("**reference period**") where applicable,<sup>6</sup> at the individual or entity level.<sup>7</sup>
- (c) To qualify for the **Additional Rental Relief** to be provided by landlords, eligible SME tenants must have:
  - (i) carried on business (or a purpose incidental to the business) at the prescribed property / outlet before 25 March 2020;
  - (ii) suffered at least a 35% decrease in average monthly gross income at the outlet level from 1 April 2020 to 31 May 2020 (both dates inclusive), compared to 1 April 2019 to 31 May 2019 (both dates inclusive), or alternative periods if the SME tenant was not operational as of 1 April 2019<sup>8;9</sup> and
  - (iii) (this is only applicable to a subject tenant which is an entity other than a specified person)<sup>10</sup> if 50% or more of the total voting shares or voting power in the subject tenant (being an entity other than a specified person) is held whether directly or indirectly by an entity that is incorporated or established in Singapore and the subject tenant is a member of a

<sup>5</sup> Section 19B (1) of the principal Act. "Prescribed property" is defined in Regulation 3 of the Rental and Related Measures Regulations and includes a list of "Type A" property and "Type B" property set out in Parts 2 and 3 of the First Schedule to the Regulations

<sup>6</sup> Updated 31 July 2020. If the PTO has not carried on business for 12 months or longer as at the last day of its FY ending on a date in 2018, but has carried on business (at the prescribed property or any other place) for 12 months or longer as at the last day of its FY ending on a date in the year 2019, the reference period will be that FY instead. If the foregoing does not apply, but the PTO has carried on business (at the prescribed property or any other place) for 12 months or longer as at the last day of its FY ending on a date in the year 2020 that is on or before 31 March 2020, the reference period will be that FY. For any other case, the PTO's average monthly revenue from the time the PTO commenced business until 31 March 2020 (both dates inclusive) multiplied by 12 that is not more than S\$100 million. See Regulation 4 of the Rental and Related Measures Regulations and Annex A: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>

<sup>7</sup> Updated 31 July 2020. See Regulations 2 and 4 of the Rental and Related Measures Regulations for the definition of "entity"

<sup>8</sup> If the SME tenant commenced business after 1 April 2019, the comparison will be against the period from the date of commencement of business to 24 March 2020 (both dates inclusive) to ascertain whether there has been a 35% decrease or more in average monthly gross income at the outlet level (see Annex A: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>)

<sup>9</sup> Updated 31 July 2020. See Annex A: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>

<sup>10</sup> See "entity" and "specified person" as defined in Regulation 2 of the Rental Relief and Related Measures Regulations. For "specified person", we have referred to them as "Non-Profit Organisation" or "NPOs" below

### Corporate Real Estate

*Singapore group of entities* (elaborated below) during the period 1 April 2020 to 31 May 2020 (both dates inclusive), that one of the following is satisfied:<sup>11</sup>

- (i) where more than one member of the Singapore group of entities has carried on any business for 12 months or longer as at the last day of the group's FY ending on a date in the year 2018 – the aggregate revenue of those members for that FY is not more than S\$100 million;
- (ii) where sub-paragraph (i) does not apply but more than one member of the Singapore group of entities has carried on any business for 12 months or longer as at the last day of the group's FY ending on a date in the year 2019 – the aggregate revenue of those members for that FY is not more than S\$100 million;
- (iii) where sub-paragraphs (i) and (ii) do not apply but more than one member of the Singapore group of entities has carried on any business for 12 months or longer as at the last day of the group's FY ending on a date in the year 2020 that is on or before 31 March 2020 – the aggregate revenue of those members for that FY is not more than S\$100 million;
- (iv) in any other case – the aggregate revenue of the Singapore group of entities, calculated using the formula  $12 \times A$ , is not more than S\$100 million, where A is the aggregate of the average monthly revenue of all members of the Singapore group of entities for the period from the earliest date on which a member of the Singapore group of entities carried on a business to 31 March 2020 (both dates inclusive).

"Singapore group of entities" is defined in Regulation 14(5) of the Rental Relief and Related Measures Regulations to mean a group of entities that are incorporated or established in Singapore and related to each other through ownership or control in such a way that the group is either:

- (a) required to prepare consolidated financial statements for financial reporting purposes under FRS 110 or an equivalent accounting standard; or
  - (b) would have been so required if equity interests in any of the entities were traded on any stock exchange in Singapore.
- (d) The lease agreements, which are in writing or evidenced in writing, must have been:
- (i) in force (a) at any time starting from 1 April 2020 to 31 July 2020 for qualifying commercial (e.g. shops) leases or licences; and (b) at any time starting from 1 April 2020 to 31 May 2020 for other non-residential (e.g. industrial/office) leases or licences;<sup>12</sup> and

<sup>11</sup> Regulation 14(3)(c) of the Rental Relief and Related Measures Regulations

<sup>12</sup> Updated 7 July 2020. See MinLaw note dated 7 July 2020 on "Note on Rental Relief Framework" ("**MinLaw Note**"): <https://www.mlaw.gov.sg/news/others/note-on-rental-relief-framework>

### Corporate Real Estate

- (ii) (a) entered into before 25 March 2020; or (b) entered into before 25 March 2020 but expired and renewed on or after 25 March 2020, either automatically or in exercise of a right of renewal in the lease agreement.<sup>13</sup>

### Eligibility of Specified Non-Profit Organisations for Rental Relief

It is noteworthy that the rental relief measures will also cover certain specified Non-Profit Organisations ("NPOs") tenant-occupiers who meet the relevant criteria.

The tenant-occupiers must be one of the following types of NPO with not more than S\$100 million in annual revenue for FY 2018 or a later appropriate period where applicable,<sup>14</sup> at the entity level:<sup>15</sup>

- (a) Registered or exempt charities (as provided in the Charities Act);
- (b) Members of the National Council of Social Service;
- (c) National sports associations;
- (d) National disability sports associations;
- (e) Specified arts and culture societies; or
- (f) Specified trade associations.

To qualify for the **Additional Rental Relief** to be provided by landlords, the tenant-occupier NPO must have:

- (a) carried on business before 25 March 2020 (at the prescribed property or any other place); and
- (b) suffered at least a 35% decrease in average monthly gross income derived from that business for the period from 1 April 2020 to 31 May 2020 (both dates inclusive), as compared to the period from 1 April 2019 to 31 May 2019 (both dates inclusive), or alternative periods if the NPO tenant was not operational as of 1 April 2019.<sup>16</sup>

### Application for Determination of Tenant's Entitlement to Rental Relief / Additional Rental Relief

For the purpose of determining whether a tenant of a prescribed property is a PTO, upon written request from its property owners or intermediary landlords, the tenant is required to share the relevant information (to prove its eligibility for the Rental Relief and / or Additional Rental Relief) within five working days from the receipt of the written request.<sup>17</sup> This may include provisions of financial

<sup>13</sup> Section 19C(1)(a) and (b) of the principal Act

<sup>14</sup> Please refer to Footnote 6 for further information

<sup>15</sup> See Annex A: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>

<sup>16</sup> If the NPO tenant commenced business after 1 April 2019, the comparison will be against the period from the date of commencement of business to 24 March 2020 (both dates inclusive) to ascertain whether there has been a 35% decrease or more in average monthly gross income for that business (see Annex A: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>).

<sup>17</sup> See sections 19U(1) and 19M of the principal Act read with Regulation 42 of the Rental and Related Measures Regulations

---

### Corporate Real Estate

statements for the relevant periods and / or a statutory declaration from the tenant that it meets the criteria for the rental waivers.

Parties are encouraged to start discussions on the waivers and to share information openly. However, if parties are unable to reach a compromise, the property owners and / or intermediary landlords may apply within ten working days after receiving the Cash Grant Notice (a notice informing the property owners of the rental waivers they should provide to their tenants) to a rental relief assessor to ascertain any of the following:

- (a) whether the subject tenant satisfies the prescribed criteria to be a PTO such that it is eligible for Rental Relief and / or Additional Rental Relief;<sup>18</sup> and / or
- (b) whether the applicant landlord qualifies to provide only half the additional rental relief on the basis of financial hardship (see section below on "[Measures Taken to Protect Landlords – Grounds of Financial Hardship for Landlords](#)").<sup>19</sup>

The rental relief assessor's determination will be binding on all landlords (including the property owner) and on all tenants of the property in the PTO chain and all parties claiming under or through them and is not appealable.<sup>20</sup>

### Amount of Relief Granted

If able to satisfy the above conditions, qualifying tenants in qualifying commercial properties ("**Type A Property**", as defined in Part 2 of the First Schedule of the Rental Relief and Related Measures Regulations) will get a total of four months of rent waived from April 2020 to July 2020. This will be borne equally by the Government and the landlord. Examples of Type A Property include, among other things, hotel rooms, hotel function rooms, serviced apartments, any premises used as or intended to be used as a shop or warehouse retail building, a childcare centre or kindergarten, a restaurant, a sports and recreational building, etc.

Qualifying tenants in other qualifying non-residential properties (e.g. industrial / office properties) ("**Type B Property**"), as defined in Part 3 of the First Schedule of the Rental Relief and Related Measures Regulations) will get two months of rent waived from April 2020 to May 2020, likewise, borne equally between the Government and the landlord.

Rent is the contractual rent as agreed upon under the terms of the lease agreement, including (a) any amount payable by the tenant to the landlord that is determined by the gross turnover of any business

---

<sup>18</sup> See Regulations 23 and the Seventh Schedule of the Rental Relief and Related Measures Regulations which set out the prescribed documents to show whether a tenant satisfies the criteria for a PTO

<sup>19</sup> Updated 31 July 2020. See section 19M of the principal Act and paragraph 17 of the MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1>

<sup>20</sup> See paragraph 18 of the MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1> and section 19N(3) of the principal Act

### Corporate Real Estate

carried on by the tenant at the property; and (b) any amount payable by the tenant to the landlord as property tax for the property. However, it excludes any maintenance fees and charges for the provision of services such as cleaning and security. Where maintenance and / or service charges are not expressly set out in the lease or licence agreement, parties are encouraged to jointly determine the amounts to be excluded based on the landlords' actual expenses (and where necessary, this should be supported by documentation).<sup>21</sup>

The table below sets out the rental relief framework in a nutshell:

	Period of Rental Relief	
	Qualifying Type A Property	Qualifying Type B Property
<b>Rental Relief for eligible SMEs (borne by Government)</b>		
Rental Relief	2 months (April and May 2020) <sup>22</sup>	1 month (April 2020) <sup>23</sup>
<b>Additional Rental Relief for eligible SMEs who have suffered significantly (borne by landlords)</b>		
Rental Relief	2 months (June and July 2020) <sup>24</sup>	1 month (May 2020) <sup>25</sup>
<b>Total</b>	<b>4 months (April to July 2020)</b>	<b>2 months (April to May 2020)</b>

If landlords have passed on property tax rebates and any direct monetary assistance to tenants since February 2020, this can be used to offset the required rental waivers.<sup>26</sup> After taking into account any offsetting, the property owner is still required to provide any remaining rental waiver to its tenant-occupiers.

### Mechanics of Rental Relief

The beauty of the mechanics of such a mandatory rental waiver is that the cash grant does not need to move from the Government (to the property owner) to flow down to the actual tenant or sub-tenant. This avoids the potential issue of sub-tenants not receiving any cash grant from the Government. By law and if all conditions have been met, new sections 19H(1)(a) and 19J(1)(a) of the principal Act stipulate that the prescribed amount of rent for the prescribed period and the additional prescribed period is simply treated as waived. The sub-tenant would not have to pay his immediate sub-landlord, who in turn will not have to pay the ultimate landlord.

<sup>21</sup> Updated 31 July 2020. The definition of "rent" is in section 19B(1) of the principal Act, read with Regulation 5 of the Rental Relief and Related Measures Regulations. For more details, also see Annex B to the MinLaw Announcement ("**Annex B**"): <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexB.pdf>

<sup>22</sup> For full details, see Regulation 10 and Third Schedule of the Rental Relief and Related Measures Regulations

<sup>23</sup> For full details, see Regulation 11 and Fourth Schedule of the Rental Relief and Related Measures Regulations

<sup>24</sup> For full details, see Regulation 12 and Fifth Schedule of the Rental Relief and Related Measures Regulations

<sup>25</sup> For full details, see Regulation 13 and Sixth Schedule of the Rental Relief and Related Measures Regulations

<sup>26</sup> Updated 31 July 2020. For more details, see Annex B: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexB.pdf>

### Corporate Real Estate

As an illustration, a qualifying commercial tenant who meets all eligibility criteria including for the additional rental relief will not have to pay rent for to his landlord at all for the months from April 2020 to July 2020 (the rental for April to May will be covered by the Government's property tax rebate and the cash grant; and the rental for June and July will be borne by the landlord). However, if the landlord himself is suffering from financial hardship and fulfils all the requisite criteria (see section below on "[Measures Taken to Protect Landlords – Grounds of Financial Hardship for Landlords](#)"), he may make an application for an assessor's determination pleading financial hardship and if he succeeds, he will then be required to bear only half of the abovementioned additional rental relief.

It is noteworthy that if a tenant has already paid to his landlord any rent (inclusive of interest or any other charge on such rent) for the prescribed period which he is eligible for the rental relief, the rent payable by such tenant for the remaining period of the lease agreement will be accordingly reduced by this amount he has paid, up to the prescribed amount ("**deductible amount**").<sup>27</sup>

For the avoidance of doubt, if there is surplus remaining after the said reduction above, the tenant's landlord is bound to immediately refund to the tenant the deductible amount or balance, and this sum is recoverable from the tenant's landlord as a debt due to the tenant.<sup>28</sup>

New section 19D(1) of the principal Act allows the Government to disburse to property owners of prescribed properties through the Inland Revenue Authority of Singapore ("**IRAS**") a cash grant pertaining to a PTO. A PTO is defined in the principal Act as "a tenant of any prescribed property who satisfies the prescribed criteria and who is an occupier of the property".<sup>29</sup> A noteworthy amendment is that there is a new definition of "PTO Chain" for a PTO of a prescribed property – being "a chain of landlords or tenants of that property ending with the PTO".<sup>30</sup> Previously, property tax rebates were mandated by law to be passed on from landlords to tenants. However, there was no requirement of the law for tenants to be bound to pass on such rebates to sub-tenants, although they were encouraged to do so. The Amendment Act, which extends to all tenants in a PTO Chain, covers this lacuna for the purposes of the rent relief granted under the principal Act. With this amendment, the Government cash grant and additional rental relief from the landlord will now flow through the PTO Chain to be passed down to all sub-tenants.

This cash grant is equivalent to approximately 0.8 month of rent for qualifying commercial properties, and approximately 0.64 month of rent for industrial and office properties.<sup>31</sup> This, taken together with the previous property tax rebate granted in the Resilience Budget, accounts for approximately two months of rental relief borne by the Government for qualifying commercial properties, and approximately one month of rent for qualifying industrial and office properties.

<sup>27</sup> Sections 19H(2)(b) and 19J(2)(b) of the principal Act

<sup>28</sup> Sections 19H(2)(d) and 19J(2)(d) of the principal Act

<sup>29</sup> Section 19B(1) of the principal Act

<sup>30</sup> Ibid

<sup>31</sup> See IRAS webpage on "Overview of the Government cash grant and rental waiver obligations":

<https://www.iras.gov.sg/irashome/Schemes/Property/Government-cash-grant--announced-in-Fortitude-Budget/>

### Corporate Real Estate

There is no appeal from IRAS' decision on whether or not to disburse such a cash grant.<sup>32</sup> Before IRAS disburses such a cash grant pertaining to a PTO of that property, IRAS will issue to the owner a notice of such a cash grant ("**Cash Grant Notice**").<sup>33</sup> IRAS will issue the Cash Grant Notices to qualifying property owners (i.e. owners of property with eligible tenant-occupiers) by mid-August 2020,<sup>34</sup> which will inform property owners of the rental waivers they should provide to their tenants.<sup>35</sup> The Cash Grant Notices will be sent via hardcopy to these property owners, and will also be available for viewing on IRAS' myTax Portal.

It should be noted that there are stringent rules as to the service of the Cash Grant Notice which one receives:<sup>36</sup>

- (a) Where an owner receives a Cash Grant Notice and is the PTO's landlord, the owner must serve such notice within four working days of receipt of the Cash Grant Notice<sup>37</sup> on the PTO and such other persons as may be prescribed;
- (b) Where an owner receives a Cash Grant Notice and is not the PTO's landlord, the owner must serve such notice within four working days of receipt of the Cash Grant Notice<sup>38</sup> on the owner's tenant in the PTO chain and such other person as may be prescribed;
- (c) Where a tenant receives a Cash Grant Notice and is the PTO's landlord, the tenant must serve such notice within four working days of receipt of the Cash Grant Notice<sup>39</sup> on the PTO and such other person as may be prescribed; and
- (d) Where the tenant receives a Cash Grant Notice and is not the PTO's landlord, the tenant must serve such notice within four working days of receipt of the Cash Grant Notice<sup>40</sup> on its own tenant that is part of the PTO chain and such other person as may be prescribed.

Service of the Cash Grant Notice may be done (a) in person; (b) via registered post; or (c) via email (to the person's last email address).<sup>41</sup> While not mandated by law, property owners are encouraged where possible to also serve a copy of the Cash Grant Notice on the end-tenant-occupier directly.<sup>42</sup>

<sup>32</sup> Section 19D(2) of the principal Act

<sup>33</sup> Section 19F(1) of the principal Act

<sup>34</sup> According to MinLaw, the majority of qualifying property owners should receive the notice by mid-August 2020 (paragraph 4 of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#ref1>).

<sup>35</sup> Updated 30 July 2020. Paragraph 2 of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#ref1>

<sup>36</sup> Section 19F(3) and (4) of the principal Act

<sup>37</sup> Updated 31 July 2020. See Regulation 8(1) of the Rental and Related Measures Regulations

<sup>38</sup> *ibid*

<sup>39</sup> Updated 31 July 2020. See Regulation 8(2) of the Rental and Related Measures Regulations

<sup>40</sup> *ibid*

<sup>41</sup> Updated 31 July 2020. See Regulation 8(4) of the Rental and Related Measures Regulations

<sup>42</sup> For more details, see paragraph 3(b) of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1>

---

### Corporate Real Estate

A person who contravenes the above without reasonable excuse shall be guilty of an offence and liable on conviction to a fine not exceeding S\$1,000.<sup>43</sup>

The rental waivers will apply once the property owner receives the Cash Grant Notice, i.e. the applicable rent and any interest payable on the rent is immediately waived under the principal Act. The tenant-occupiers will not need to pay rent for the relevant months, unless other factors apply.<sup>44</sup>

If the rent (that should be waived) had already been paid, the rental waivers should be applied to the following immediate months of rent. If this is not possible or if the lease term is ending, the tenant-occupiers may obtain a refund from their landlords.

When properties are not fully leased by SME tenants, the property owner and tenant should submit a joint application to IRAS and provide supporting documents and proof of SME tenants within its property. IRAS will then pro-rate the cash grant accordingly. Some qualifying property owners may also not receive a Cash Grant Notice for various other reasons (e.g. the property is only partially let out). Such eligible tenant-occupiers or property owners with eligible tenant-occupiers who have not received any Cash Grant Notice by 21 August 2020 should make an application to IRAS at <https://go.gov.sg/governmentcashgrant> between 21 August 2020 and 21 October 2020.<sup>45</sup>

SME property owners that run a trade or business on their own property will also be eligible for this cash grant, although no grants will be given for vacant property and land under development.<sup>46</sup>

### Rental Waivers for Intermediary Landlords

It should be noted that if the eligible PTO rents the property through an intermediary landlord, all intermediary landlords along the chain will also receive rental waivers in respect of that eligible tenant-occupier for the corresponding period from their intermediate landlords, *regardless* of whether the intermediary landlords meet the eligibility criteria. An intermediary landlord's entitlement to the rental waivers is solely dependent on the tenant-occupier's eligibility.<sup>47</sup>

### Moratorium on Enforcement Actions

It is noteworthy that until the Cash Grant Notices are issued, landlords are not allowed to take enforcement action for non-payment of rent against any tenant-occupier that meets the criteria for these

---

<sup>43</sup> Section 19F(5) of the principal Act

<sup>44</sup> Updated 31 July 2020. See paragraph 7 of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1>

<sup>45</sup> Updated 31 July 2020. See paragraph 10 of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1>

<sup>46</sup> For more details, see Annex B-2 of the Fortitude Budget Statement on "Rental Waivers for Tenants in Government and Private Properties": [Annex B-2 of the Fortitude Budget](#)

<sup>47</sup> See Annex B: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexB.pdf>

### Corporate Real Estate

rental relief measures.<sup>48</sup> The principal Act provides for a moratorium on enforcement actions against tenant-occupiers for non-payment of rent under the lease or licence agreement. Landlords are prohibited from taking, among other things, any of the following actions on the tenant-occupier or on the tenant-occupier's guarantor or surety in relation to the non-payment of rent:<sup>49</sup>

- (a) Terminating the lease or licence agreement;
- (b) Exercising the landlord's right of re-entry or forfeiture under the lease or licence agreement; and
- (c) Starting or continuing arbitral, court, insolvency or restructuring proceedings.

This moratorium ends on the date of the Cash Grant Notice issued by IRAS or 31 December 2020, whichever is earlier.

#### **2. Deferred Payment – Statutory Repayment Schedule**

SME / NPO tenant-occupiers who qualify for the Additional Rental Relief can also choose to repay rental arrears accumulated from 1 February 2020 to 19 October 2020 (which the Law Minister may extend or shorten) under a prescribed statutory repayment schedule by serving a written notice on their landlords (as well as any guarantor / surety for its obligations in the contract) before 19 October 2020.<sup>50</sup> Once this notice has been served, these tenants must service the first instalment no later than 1 November 2020.<sup>51</sup>

This repayment schedule works such that the tenants pay a specified portion of their arrears in equal instalments over an extended period of time (up to a maximum of nine months or the remaining term of tenancy, whichever is shorter), with interest on these arrears capped at 3% per annum.<sup>52</sup> The Law Minister, Mr K. Shanmugam had explained that this rate is "comparable" to the median rate of secured bank loans in April 2020 and was derived considering landlords' cost of capital with property as security. Although some landlords' cost of capital could potentially be higher than 3%, this rate was explained by Mr. K. Shanmugam to be intended to "strike a balance between the needs of landlords who have their own financial obligations and their tenants who do face significant challenges repaying their rental obligations under these fairly extraordinary circumstances".

- (a) For qualifying commercial properties, the maximum amount of arrears that can be serviced through these instalments will be five months of rent ("rent" refers to contractual rent, excluding any maintenance fees and charges for the provision of services such as cleaning and security).<sup>53</sup>

<sup>48</sup> See paragraph 4 of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1>

<sup>49</sup> For more details, see Section 19G of the principal Act and Regulation 9 of the Rental and Related Measures Regulations and paragraphs 11 and 12 of MinLaw Announcement: <https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework#fn1>

<sup>50</sup> Section 19P of the principal Act

<sup>51</sup> Updated 31 July 2020. Please see Annex D of MinLaw Announcement ("Annex D"):

<https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexD.pdf>

<sup>52</sup> Section 19P(2) of the principal Act. See Annex D: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexD.pdf>

<sup>53</sup> Updated 31 July 2020. See Regulation 5 of the Rental and Related Measures Regulations read with section 19B(1) of the principal Act and Annex D: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexD.pdf>

---

### Corporate Real Estate

- (b) For other non-residential properties (e.g. industrial and office properties), the maximum arrears that can be serviced through these instalments would be four months of rent.

#### Safeguard for Landlords

However, this implies that landlords would bear the risk of default. As a safeguard, if (a) the tenant fails to make a repayment instalment within 14 calendar days of it being due;<sup>54</sup> or (b) the tenant terminates or repudiates the lease / licence ("**Lease Agreement**") during the repayment period; or (c) the landlord terminates the Lease Agreement for any default by the tenant other than a failure to pay a repayment instalment under the statutory repayment schedule within the prescribed time after it becomes due, the statutory repayment schedule will cease to have effect. It then follows that the landlord is entitled to:

- (a) immediate repayment of all arrears and all interest and other charges that would have accrued on the outstanding rental arrears as per the original Lease Agreement as of the date of default, less any interest paid on those arrears pursuant to the schedule; and
- (b) exercise all rights under the contract for all arrears and interest and other charges.<sup>55</sup>

In other words, if the tenant defaults under this statutory repayment schedule, all outstanding arrears (including interest and other charges) will be accelerated and immediately payable in accordance with the terms of the original contract.

Landlords are also able to draw down from existing security deposits to offset the accumulated rental arrears during this repayment period but limited to the amount of security deposit less an amount representing one month of rent remaining.<sup>56</sup> To ensure transparency and accountability, tenants are obliged (on a written demand by the landlord) to provide specified documents and information (elaborated below) to their landlords if the following conditions are met:

- (a) in the event where:
  - (i) the Lease Agreement is terminated or repudiated by the tenant during the repayment period; or
  - (ii) the Lease Agreement is terminated by the landlord for any default by the tenant other than a failure to pay a repayment instalment under the statutory repayment schedule within the prescribed time after it becomes due; and
- (b) there are two or more repayment instalments outstanding which remain unpaid as at the time of termination or repudiation of the Lease Agreement.<sup>57</sup>

---

<sup>54</sup> Updated 31 July 2020. Please see Regulation 41 of the Rental and Related Measures Regulations read with section 19Q(2)(a) of the principal Act and Annex D: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexD.pdf>

<sup>55</sup> Section 19Q of the principal Act

<sup>56</sup> Section 19T of the principal Act

<sup>57</sup> Section 19Q(3) of the principal Act

### Corporate Real Estate

These specified documents and information include the balance sheet, profit and loss statement, cash flow statement and statement of changes in equity of the tenant-occupier from 1 April 2020 to the date of termination or repudiation of the Lease Agreement (both dates inclusive) and must be accompanied by a statutory declaration.<sup>58</sup> The tenant-occupier will be required to provide a reasonable proposal on how it proposes to resolve the outstanding rental arrears, interests and other charges.<sup>59</sup>

A person who contravenes this without reasonable excuse, will be guilty of an offence and liable on conviction to a fine not exceeding S\$5,000.<sup>60</sup>

### **3. Rules on Hold over**

Due to the COVID-19 outbreak and the recent circuit-breaker restrictions, some tenants have faced difficulties vacating their premises at the end of their lease term and before the expiry of the prescribed period (i.e. before 19 October 2020 or as extended or shortened by the Law Minister) as a result of being unable to access the premises or to find movers.

Such tenants may qualify for certain relief if they are able to show that the subject inability to vacate the property is caused by a COVID-19 event and the following conditions are satisfied:<sup>61</sup>

- (a) The tenant must be a lessee or licensee of a non-residential (e.g. commercial or industrial) immovable property;
- (b) The lease or licence must have been (i) entered into or renewed before 25 March 2020; or (ii) originally entered into before 25 March 2020, and renewed automatically or in exercise of a right of renewal on or after 25 March 2020;
- (c) The lease or licence expired, or was terminated on or after 1 February 2020;
- (d) The tenant was unable to vacate the premises due to COVID-19 events; and
- (e) The tenant could not have avoided the holding over by taking reasonable steps (e.g. contacting at least one moving company or making good efforts to independently engage workers to help with vacating the premises).

<sup>58</sup> See Regulations 41(2)(b) and 41(6) of the Rental and Related Measures Regulations read with section 19Q(3) of the principal Act and Annex D: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexD.pdf>

<sup>59</sup> See Regulation 41(3) of the Rental and Related Measures Regulations

<sup>60</sup> Section 19Q(4) of the principal Act

<sup>61</sup> Updated 31 July 2020. See section 7B of the principal Act read with Regulation 3D of the Temporary Relief for Inability to Perform Contracts Regulations. For more details, refer to MinLaw press release on "COVID-19 (Temporary Measures) Act Enhanced to Extend Relief to an Inability to Vacate Business Premises and to Cap Late Payment Interest and Charges" ("**MinLaw Press Release**"): <https://www.mlaw.gov.sg/news/press-releases/covid-19-temporary-measures-act-enhanced-inability-to-vacate-cap-late-payment-interest-and-charges>

### Corporate Real Estate

Tenants who meet these conditions must then serve a notification of relief on the landlord and will only be liable for the amounts listed in the table below, which factors in the period in which the tenant was unable to vacate the premises as well as whether the tenant operated its business on the premises during the holding over period:<sup>62</sup>

S/N	Condition	Amount payable for the relevant period
<b>During such part of the holding over period that overlaps with the Circuit Breaker Period or during Phase One (7 April 2020 to 18 June 2020, both dates inclusive)</b>		
1.	If the tenant <u>did not operate</u> its business on the premises during this period	The tenant is not liable for any sums, except for service charges, maintenance charges and utilities charges
2.	If the tenant <u>operated</u> its business on the premises during this period (if the tenant operated its business for <b>part</b> of this period only, the amount payable will be pro-rated accordingly)	The tenant is liable for the lower of: (a) The amount payable by the tenant under the lease or licence agreement for holding over (if this is provided for); or (b) At the landlord's option: 100% of rent <sup>63</sup> or 100% of market rent of the premises during this period
<b>During such part of the holding over period that is either before the Circuit Breaker Period, or after Phase One (i.e. 1 February 2020 to 6 April 2020 or 19 June 2020 to 19 October 2020 respectively, both dates inclusive)</b>		
3.	If the tenant <u>did not operate</u> its business on the premises during this period	The tenant is liable for the lower of: (a) The amount payable by the tenant under the lease or licence agreement for holding over (if this is provided for); or (b) At the landlord's option: 50% of rent or 50% of the market rent of the premises during this period
4.	If the tenant <u>operated</u> its business on the property during this period (if the tenant operated its business for <b>part</b> of this period only, the amount payable will be pro-rated accordingly)	The tenant is liable for the lower of: (a) The amount payable by the tenant under the lease or licence agreement for holding over (if this is provided for); or (b) At the landlord's option: 100% of rent or 100% of market rent of the premises during this period

<sup>62</sup> Updated 31 July 2020. See section 7B of the principal Act and MinLaw Press Release: <https://www.mlaw.gov.sg/news/press-releases/covid-19-temporary-measures-act-enhanced-inability-to-vacate-cap-late-payment-interest-and-charges>

<sup>63</sup> "Rent" is the amount payable for the lease or licence of the property, and includes all service, maintenance and utility charges (all amounts to be calculated based on the last rent payable by the tenant under its lease or licence). See MinLaw Press Release: <https://www.mlaw.gov.sg/news/press-releases/covid-19-temporary-measures-act-enhanced-inability-to-vacate-cap-late-payment-interest-and-charges>.

### Corporate Real Estate

A tenant may be considered to have operated its business on the premises during the holding over period, if the tenant performed activities on the property that went towards the functioning of its business.<sup>64</sup> If the tenant only performed activities in connection with the maintenance of the property, or activities necessary for health or safety reasons (e.g. cleaning or servicing), he would not be considered to have operated his business on the property.<sup>65</sup>

Landlords who have back-to-back arrangements with new tenants might suffer a "knock-on impact" and can serve a notification of relief on the new tenant in such circumstances. This would give the landlord and new tenant time to work out a mutually agreeable compromise. If this is not possible, parties can apply to an assessor for a determination of a just and equitable outcome.

## B. Measures Taken to Protect Landlords

### 1. Grounds of Financial Hardship for Landlords

If landlords struggle to provide tenants with the mandatory Additional Rental Relief and fulfil the criteria stipulated below, they may apply for relief on grounds of financial hardship.<sup>66</sup> This was crafted to protect smaller landlords who might only own one property and depend on rental for their livelihoods or retirement.

Landlords who meet all of the following criteria may apply to a rental relief assessor to reduce the amount of Additional Rental Relief they have to provide:<sup>67</sup>

- (a) The applicant landlord must be an individual or a sole proprietor, and the owner of the prescribed property;
- (b) The aggregate of the annual values of all investment properties (including the prescribed property) owned by the landlord (whether solely or together with another person and whether directly or through any investment holding corporation) is not more than S\$60,000 as at 13 April 2020; and
- (c) The rental income derived by the landlord from the prescribed property in question in Year of Assessment 2019 constituted 75% or more of the landlord's gross income in that year of assessment.

<sup>64</sup> For more details and examples, see Annex A - "Operation of the Business on the Premises" of the MinLaw Press Release: [https://www.mlaw.gov.sg/files/news/press-releases/2020/7/AnnexA\\_COVIDAct7A7B.pdf](https://www.mlaw.gov.sg/files/news/press-releases/2020/7/AnnexA_COVIDAct7A7B.pdf)

<sup>65</sup> *ibid*

<sup>66</sup> See sections 19M(2)(c) and 19N(1)(c) of the principal Act

<sup>67</sup> Updated 31 July 2020. See Regulation 38 of the Rental Relief and Related Measures Regulations and Annex C: <https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexC.pdf>

### Corporate Real Estate

If the landlord meets the criteria above, the rental relief assessor may reduce the amount of Additional Rental Relief that the landlord has to bear by 50%. This would amount to one month-rent for qualifying tenants in Type A Properties, and half a month-rent for qualifying tenants in Type B Properties.<sup>68</sup> The remaining rent payable will be borne by the tenant-occupier.

#### **2. Additional Support for Landlords**

Landlords who have cash-flow problems as a result of providing relief to tenants as required under the Amendment Act may take advantage of the following measures made available by the Ministry of Finance ("MOF"), IRAS, Enterprise Singapore and the Monetary Authority of Singapore ("MAS").<sup>69</sup>

##### **Enhanced Credit Reliefs for Landlords**

Landlords who are individuals and SMEs may apply to banks and finance companies to defer principal payments on their property loans. Landlords who are individuals who are current in their loan repayments as at 1 February 2020 are also allowed to defer principal as well as interest repayments up to 31 December 2020 if they are required under the principal Act to provide their tenants rental waivers or payment rescheduling. They can also opt to extend the loan tenure by up to the corresponding deferment period to ease monthly instalments when they resume regular repayments. Their credit scores will not be affected when they take up payment deferrals. This enhanced relief measure for individual landlords will be provided on an opt-in basis upon application to the banks and finance companies.<sup>70</sup>

Large corporate landlords including real estate investment trusts listed on the Singapore Exchange Securities Trading Limited ("S-REITs"), are in turn encouraged to explore funding options with their financiers.

Banks have provided the assurance that there will be no automatic enforcement of loan covenant breaches with landlords as a result of the constraints and requirements imposed on the landlords by the Amendment Act.

##### **Further Extension of Time for Distribution of Taxable Income for S-REITs**

Under the tax transparency treatment, an S-REIT is not taxed on its income that is distributed to its unitholders. Pursuant to a joint announcement by MOF and IRAS on 16 April 2020, to qualify for the tax transparency treatment, S-REITs are given an extended period of up to 12 months from the end of their FY2020 to distribute their taxable income derived in FY2020. Due to the new rental relief measures

<sup>68</sup> Updated 31 July 2020. See section 190(3) of the principal Act read with Regulation 39 of the Rental and Related Measures Regulations

<sup>69</sup> See IRAS press release "Additional Loan and Cashflow Support for Landlords and Businesses Affected by COVID-19" dated 3 June 2020 ("**IRAS Press Release**"): <https://www.iras.gov.sg/irashome/News-and-Events/Newsroom/Media-Releases-and-Speeches/Media-Releases/2020/Additional-Loan-and-Cashflow-Support-for-Landlords-and-Businesses-Affected-by-COVID-19/>

<sup>70</sup> For more details, see IRAS Press Release

---

### Corporate Real Estate

under the Amendment Act, the timelines for S-REITS to distribute their taxable income derived in FY2020 and FY2021 to qualify for the tax transparency are further extended as follows:<sup>71</sup>

- (a) for taxable income derived in FY2020, the distribution deadline is 31 December 2021; and
- (b) for taxable income derived in FY2021, the distribution deadline is 31 December 2021 or three months after the end of FY2021, whichever is later.

This extension gives S-REITs more flexibility to manage their cash flows amidst this challenging period.

## C. Measures Which Could Protect Intending Purchasers

### 1. Section 13(3) of the Principal Act – Assessors' Power to Make Further Determinations

Section 13(3)(d) of the principal Act<sup>72</sup> gives the assessor the power to make a further determination to achieve an outcome that is "just and equitable in the circumstances of the case". In a matter concerning an option given by a housing developer to an intending purchaser for the purchase of a unit of housing accommodation, the assessor may release or discharge (in whole or in part) of any party to the contract from any obligation under the contract.

However, section 13(3)(d) of the principal Act does not appear to extend to "an agreement between a housing developer and a purchaser for the sale and purchase of a unit of housing accommodation" (a scheduled contract in paragraph 1(j) of the Schedule of the principal Act). Therefore, questions remain with regard to the scope and application of this new section 13(3)(d):

Is a purchaser able to apply for an assessor's determination to be released or discharged from his obligations to purchase the property only at the option to purchase stage? It appears from the wording of the Amendment Act that it could be read such that he might not be able to apply for such relief after the sale and purchase agreement has been entered into.

---

<sup>71</sup> For more details, see [IRAS e-Tax Guide: Income Tax Treatment of Real Estate Investment Trusts and Approved Sub-Trusts \(Seventh Edition\)](#)

<sup>72</sup> Section 13(3)(d) of the principal Act came into operation on 20 June 2020

Corporate Real Estate

### D. Relief Measures for Developers

#### 1. ***New Part 8 (Sections 36 to 39) of the Principal Act – Contracts Affected by Delay in the Performance or Breach of a Construction Contract, Supply Contract or Related Contract***

The Amendment Act will introduce a new Part 8 in the principal Act to provide relief for parties to contracts affected by delay in the performance or breach of a construction contract, supply contract or related contract.

New Part 8 will apply to a contract between A and B (“**affected contract**”), where:

- (a) The affected contract does **not** fall within a prescribed class of contracts;
- (b) The affected contract is in force during the prescribed period;
- (c) During the period from 1 February 2020 to 19 October 2020 (both days inclusive), the affected contract is affected by a breach or delay in a construction or supply or related contract (which need **not** be between A and B); and
- (d) That breach or delay must be due to COVID-19 and occurs during the period from 1 February 2020 to 19 October 2020 (both days inclusive).

When in force, section 37 of the principal Act will allow A or B to, within the prescribed time, apply to the Registrar of assessors to appoint an assessor to make a determination whether such a case is one to which Part 8 should apply to, and if so, whether it is just and equitable in the circumstances of the case:<sup>73</sup>

- (a) for any prescribed obligation or prescribed right under the contract to be performed or exercised in a manner other than in accordance with the terms of the contract; and
- (b) for any prescribed term in the contract to be varied, released or discharged.

In making such a determination, the assessor (a) may take into account prescribed factors (which will be subsequently legislated); and (b) must seek to achieve an outcome that is just and equitable in the circumstances of the case.<sup>74</sup>

Part 8 has yet to come into force. MinLaw has clarified that the relief under Part 8 will not apply to all types of contracts and it is still considering the scope of this relief and the assessor’s powers.

It should be noted that this relief measure is potentially a lifeline to developers, for example, who face difficulties in being unable to rectify defects or deliver vacant possession of the units to purchasers within

<sup>73</sup> Section 37(1) of the principal Act, which has yet to come into force

<sup>74</sup> Section 38(2) of the principal Act which has yet to come into force

### Corporate Real Estate

the contractual timelines as a result of COVID-19 events. In such an instance, they would be able to apply for an assessor's determination as set out above. Again, with regard to the complete scope and application, we would have to await the passing of further subsidiary legislation.

## E. Cap on Late Payment Interest and Charges for Specific Contracts

To help businesses affected by COVID-19 to manage their debt load and to recover more quickly, section 7A of the principal Act limits the amount of late payment interest and charges that can be charged for arrears that arise due to COVID-19 under certain prescribed contracts to a maximum of 5% per annum of simple interest on the arrears.<sup>75</sup>

This relief will apply to the following categories of contracts:<sup>76</sup>

- (a) Hire-purchase or conditional sale agreements as defined under the Hire-Purchase Act where the good hired or conditionally sold under the agreement is:
  - (i) A plant, machinery or fixed asset in Singapore that is used for manufacturing, production or other business purposes; or
  - (ii) A commercial vehicle, but exclude where such agreements are entered into with a bank or finance company (these contracts are excluded as MAS had already adopted a series of voluntary relief measures for individuals and businesses);
- (b) Leases / rental agreements for:
  - (i) A plant, machinery or fixed asset in Singapore that is used for manufacturing, production or other business purposes; or
  - (ii) A commercial vehicle (excluding taxis and private-hire cars);
- (c) Agreements between housing developers and purchasers for the sale and purchase of units of housing accommodation;
- (d) Construction contracts or supply contracts; and
- (e) Event contracts or tourism-related contracts.

Upon service of a notification of relief under the principal Act, the late payment interest and charges that are chargeable on the arrears that accrued between 1 February 2020 and 19 October 2020 will be capped at the amount equivalent to 5% per annum of simple interest on the arrears. Where the actual

<sup>75</sup> See section 7A(2) of the principal Act read with Regulation 3C of the Temporary Relief for Inability to Perform Contracts Regulations

<sup>76</sup> See Regulation 3B of the Temporary Relief for Inability to Perform Contracts Regulations

---

Corporate Real Estate

amount of late payment interest and charges under the contract does not exceed the capped amount, the debtor will continue to be liable for the (lower) contractual amount.<sup>77</sup>

## Conclusion

The Government typically does not interfere in contractual obligations. However, it is recognised that these are unprecedented times and exceptional circumstances which warrant a need for targeted and substantive intervention, to save SMEs which are critical to our country's economy and infrastructure.

Given the mandated co-sharing of rental relief between the various stakeholders, landlords and tenants should carefully assess their legal obligations and the reliefs they are entitled to and consult with their advisers to better understand their rights and obligations.

Visit our [COVID-19 Resource Centre](#) for views from our lawyers across the region on common issues and legal implications brought about by COVID-19. For specific inquiries, please reach out to your relationship partner or send an email to our [COVID-19 Legal Team](#).

---

<sup>77</sup> See MinLaw webpage on "Cap on Late Payment Interest or Charges for Specific Contracts": <https://www.mlaw.gov.sg/news/press-releases/covid-19-temporary-measures-act-enhanced-inability-to-vacate-cap-late-payment-interest-and-charges>

## Contacts



**Elsa Chai**  
Head, Corporate Real  
Estate

T +65 6232 0512

[elsa.chai@rajahtann.com](mailto:elsa.chai@rajahtann.com)



**Norman Ho**  
Senior Partner, Corporate  
Real Estate

T +65 6232 0514

[norman.ho@rajahtann.com](mailto:norman.ho@rajahtann.com)

---

Please feel free to also contact Knowledge and Risk Management at [eOASIS@rajahtann.com](mailto:eOASIS@rajahtann.com)

## Our Regional Contacts

RAJAH & TANN | *Singapore*

**Rajah & Tann Singapore LLP**

T +65 6535 3600  
sg.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

**Christopher & Lee Ong**

T +60 3 2273 1919  
F +60 3 2273 8310  
www.christopherleeong.com

R&T SOK & HENG | *Cambodia*

**R&T Sok & Heng Law Office**

T +855 23 963 112 / 113  
F +855 23 963 116  
kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

**Rajah & Tann Myanmar Company Limited**

T +95 1 9345 343 / +95 1 9345 346  
F +95 1 9345 348  
mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP  
Shanghai Representative Office**

T +86 21 6120 8818  
F +86 21 6120 8820  
cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

**Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)**

T +632 8894 0377 to 79 / +632 8894 4931 to 32  
F +632 8552 1977 to 78  
www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

**Assegaf Hamzah & Partners**

**Jakarta Office**

T +62 21 2555 7800  
F +62 21 2555 7899

**Surabaya Office**

T +62 31 5116 4550  
F +62 31 5116 4560  
www.ahp.co.id

RAJAH & TANN | *Thailand*

**R&T Asia (Thailand) Limited**

T +66 2 656 1991  
F +66 2 656 0833  
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

**Rajah & Tann LCT Lawyers**

**Ho Chi Minh City Office**

T +84 28 3821 2382 / +84 28 3821 2673  
F +84 28 3520 8206

RAJAH & TANN | *Lao PDR*

**Rajah & Tann (Laos) Co., Ltd.**

T +856 21 454 239  
F +856 21 285 261  
la.rajahtannasia.com

**Hanoi Office**

T +84 24 3267 6127  
F +84 24 3267 6128  
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.

## Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge & Risk Management at [eOASIS@rajahtann.com](mailto:eOASIS@rajahtann.com). In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or e-mail Knowledge & Risk Management at [eOASIS@rajahtann.com](mailto:eOASIS@rajahtann.com).