
Corporate Real Estate

Temporary Measures for Collective Sales under the COVID-19 (Temporary Measures) (Temporary Measures for Conduct of Collective Sale of Property) Order 2020

Introduction

The COVID-19 (Temporary Measures) Act ("**Act**") was enacted in April 2020 to introduce a series of legal reliefs and mechanisms for businesses and individuals to aid them in managing the impact of the COVID-19 pandemic.

Since then, the Act has undergone certain amendments and new subsidiary legislative instruments been enacted to keep pace with the changing circumstances of the pandemic, and to provide necessary clarifications and enhancements. On 5 October 2020, the COVID-19 (Temporary Measures) (Temporary Measures for Conduct of Collective Sale of Property) Order 2020 ("**Order**") was published in the Government Gazette and came into operation on 6 October 2020.

This Update highlights the key features of the Order.

COVID-19 (Temporary Measures) (Temporary Measures for Conduct of Collective Sale of Property) Order 2020

The Order temporarily modifies certain select provisions of the Land Titles (Strata) Act ("**LTSA**") to alleviate the profound effects COVID-19 events may have on the collective sales of properties.

Specified persons (specified in the First Column of the Schedule in the Order ("**Order Schedule**"), reproduced below) may make an application ("**Extension Application**") to the Law Minister where a requirement under one of the schedules of the LTSA (each a "**LTSA Schedule**") was not satisfied (whether before, on or after 6 October 2020) or is unlikely to be satisfied owing to COVID-19 events. The remedy (if approved by the Minister), would be an extension of the usual timelines.

Contribution Note: This Client Update was written with contributions from Michelle Tham, Associate, and Letitia Chen, Associate, from Corporate Real Estate.



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The intention behind this Order is to replace the select requirements under the LTSA with modifications set out in the Order. If the Extension Application is approved by the Minister, then the provisions of the LTSA Schedule apply to that case with the modifications set out in the Third Column below.

Order Schedule – Modified Provisions of LTSA for Collective Sale of Property Affected by COVID-19 Event

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
Applicant for Application under paragraph 3 of the Order	Requirement of LTSA Schedule not or unlikely to be satisfied	Modified Requirement of LTSA Schedule
1. The chairperson of the collective sale committee (" CSC ") in question.	Requirement in paragraph 1(a) of the First Schedule to the LTSA to execute a collective sale agreement (" CSA ") no more than 12 months before the date of the application under section 84A(1), 84D(2), 84E(3) or 84FA(2) of the LTSA (the " Sale Order Application ") (called in this item the 12-month period).	(a) Where the 12-month period has <u>not expired</u> on the date of the Extension Application – replace that period with the period of 18 months before the date of the Sale Order Application ; (b) Where the 12-month period has <u>expired</u> on the date of the Extension Application – replace that period with the period of 6 months after the date the Minister approves the Extension Application .
2. The chairperson of the CSC in question.	Requirement in paragraph 1(a) of the First Schedule to the LTSA for the CSA to be executed within a permitted time as defined in paragraph 2(1)(a) of that Schedule (called in this item the permitted time).	(a) Where the permitted time has <u>not expired</u> on the date of the Extension Application – the permitted time would be not more than 18 months after the date the first subsidiary proprietor or his duly appointed attorney (as the case may be) signs the CSA ;

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		<p>(b) Where the permitted time has <u>expired</u> on the date of the Extension Application – the permitted time would be not more than 6 months after the date the Minister approves the Extension Application. (The requirement to affix the 4-weekly notices on a conspicuous part of each building at every 4-weekly interval (in paragraph 1(b) of the First Schedule of the LTSA) will continue to apply until the expiry of the extended period in item 2(b) above.)</p>
<p>3. The chairperson of the CSC in question or, if the CSC is dissolved before the date of the Extension Application by reason of paragraph 12(2) of the Third Schedule of the LTSA, the chairperson of that CSC.</p>	<p>Under paragraph 12 (2) of the Third Schedule of the LTSA, a CSA must be executed within 12 months after the CSC is constituted, and if not, the CSC is dissolved (called in this item the 12-month period).</p>	<p>(a) Where the 12-month period has <u>not expired</u> on the date of the Extension Application – replace that period with the period of 18 months;</p> <p>(b) Where the 12-month period <u>has expired</u> on the date of the Extension Application, the dissolution of the CSC is not treated as a relevant event under paragraph 2 of the Second Schedule of the LTSA and hence, paragraph 2(1A), (2A) and (3A) will not apply to the reconstitution of the CSC, and instead 2(1), (2) and (3) will continue to apply (i.e. higher percentages to requisition for a meeting to reconstitute a CSC will not apply).</p>

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Requirements of Extension Application

An Extension Application must be made to the Minister no later than 25 March 2021. The application must be in Form A1 (available at <https://www.mlaw.gov.sg/covid19-relief/collective-sale> ("MLAW Website")) and must specify the following:

- (a) The date the CSC that is the subject of the Extension Application is constituted for the purposes of a collective sale of property under Part VA of the LTSA;
- (b) The requirement of an LTSA Schedule for the collective sale that was not satisfied or is unlikely to be satisfied; and
- (c) A brief explanation why it was or will be inexpedient or impracticable to carry out any act necessary for the requirement to be satisfied in view of a COVID-19 event.

The Minister must reject the Extension Application if the applicant fails to satisfy the Minister that the applicant has complied with the following requirements:

- (a) The applicant must, within 10 working days after the date the Extension Application is made, serve on every affected party (i) a copy of the Extension Application; and (ii) Form A2, being the form in which an objection to the Extension Application is to be made. Form A2 is available on MLAW Website.
- (b) The applicant must also affix a copy of the Extension Application to a conspicuous part of each building comprised in the strata title plan or the development, as the case may be.

Objection

An affected party may, no later than 10 working days after being served with a copy of the Extension Application and Form A2, object by submitting to the Minister an objection to the Extension Application in Form A2. The affected party would have to serve a copy of this objection on the applicant as well.

Outcome of Extension Application

The Minister may after considering the Extension Application and any objections, approve the Extension Application or reject the Extension Application. The Minister may also refuse to consider an Extension Application if the Extension Application is incomplete, or not accompanied by any document specified in the form or by the Minister, or if the Extension Application fails any criteria stated in the Order.

The Minister will then (as soon as practicable after deciding on an Extension Application), notify the applicant of the Minister's decision. The applicant must, within 10 working days after receiving notice of the outcome of the Extension Application, serve on every affected party a notice of the outcome. The applicant must also affix a copy of a notice of the outcome of the Extension Application to a conspicuous part of each building in the development.

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Service of Documents

For the purposes of the Order, any document required to be served on any person in connection with an Extension Application may be served (i) personally; (ii) by sending it to the person's *appropriate address* by prepaid registered post; or (iii) by sending it to the person's last email address.

A person's "appropriate address" is:

- (a) Where the person is a subsidiary proprietor of a lot in the strata title plan - the address shown on the strata roll;
- (b) Where the person is a proprietor of a flat or land – the last recorded address at the Land Titles Registry or Registry of Deeds;
- (c) Where the person is (i) a mortgagee, chargee or other person with an estate or interest in a lot or flat whose interest is notified on the land register for that lot or flat; or (ii) a subsidiary proprietor in reversion of the leasehold estate in a lot, or his or her mortgagee or chargee or other person with an estate or interest in the lot and whose interest is notified on the subsidiary strata land-register for that lot – the address on the strata roll or last recorded address at the Land Titles Registry or Registry of Deeds (as the case may be); and
- (d) Where the person is a management corporation – its address recorded on the folio of the land-register comprising the common property.

Service of a document would take effect (a) if it is sent to a postal address by prepaid registered post – on the second day after the document was posted (even if it is returned undelivered); or (b) if it is sent to an email address – at the time that the document becomes capable of being retrieved by the person.

Conclusion

These changes in the legislation pertaining to collective sales reflect the unprecedented times and exceptional circumstances which warrant a need for targeted and substantive intervention, which would include marked deviations from well-established legislation, albeit of a temporary nature.

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](#).

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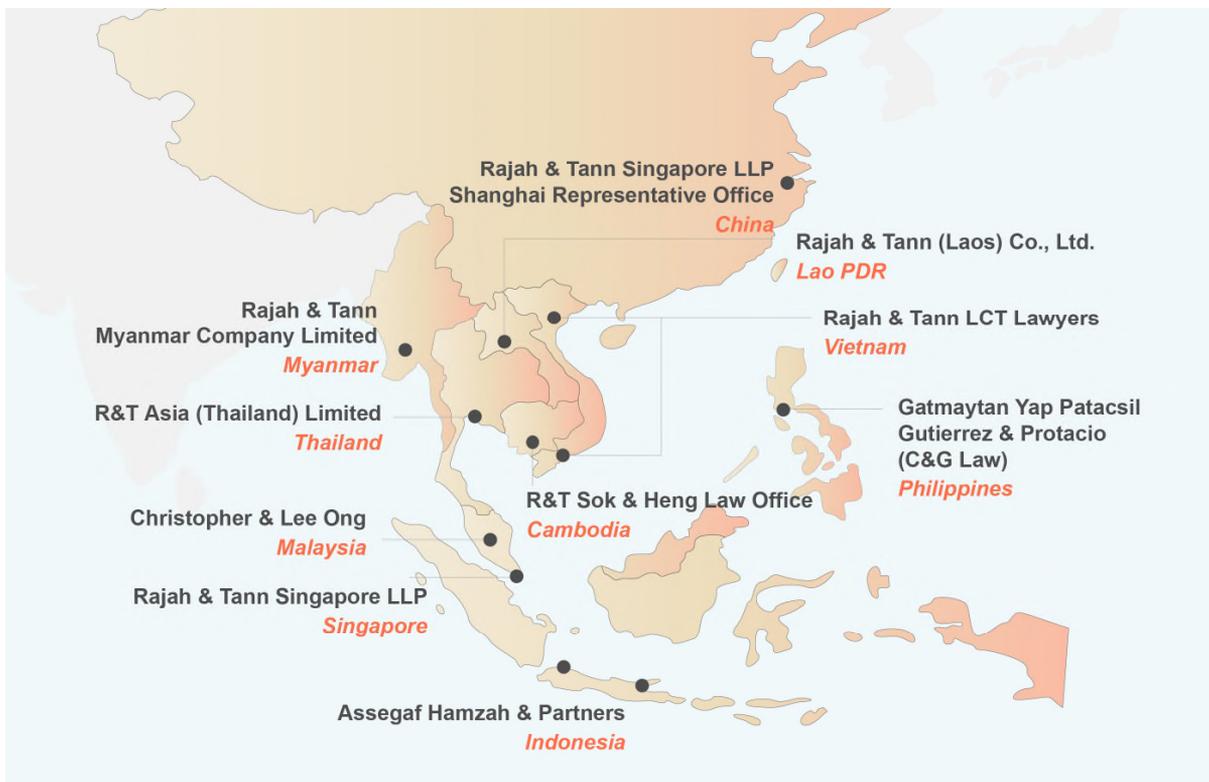
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