

Restructuring & Insolvency

## COVID-19 (Temporary Measures) Act 2020 Extended to Leases/Rental Agreements for Commercial Equipment and Commercial Vehicles

### Introduction

The COVID-19 (Temporary Measures) Act 2020 ("**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 20 April 2020, the provisions in the Act which deal with temporary relief measures for an inability to perform such contracts took effect. These temporary relief measures apply for six months from 20 April 2020 to 19 October 2020.

On 20 June 2020, the Act was amended to:

- Extend the temporary relief measures under the Act to leases or rental agreements for commercial equipment and commercial vehicles; and
- Give effect to part of the changes set out in the COVID-19 (Temporary Measures) (Amendment) Act 2020 ("**Amendment Act**"). These changes aim to enhance the temporary relief measures for an inability to perform a scheduled contract specified in the Act.

This Update provides a summary of the changes to the Act that took effect on 20 June 2020.

By way of background, the COVID-19 (Temporary Measures) (Amendment) Bill 2020 was passed in Parliament on 5 June 2020. The Amendment Act was gazetted on 19 June 2020 and came into force partially on 20 June 2020. The main changes to be implemented by the Amendment Act are the introduction of a rental relief framework for eligible small and medium enterprises ("**SME**") tenants of non-residential properties and provision of additional relief for tenants who have suffered significant financial hardship due to COVID-19. These key changes in the Amendment Act have yet to come into force and are expected to be implemented in end-July 2020.

For more information on the rental relief framework and other changes in the Amendment Act, please refer to our earlier Client Updates on "[Temporary Relief Measures for Tenants and Landlords, Purchasers and Developers in the COVID-19 \(Temporary Measures\) \(Amendment\) Bill 2020](#)" and "[Changes to COVID-19 \(Temporary Measures\) Act 2020 to Provide Rental Waivers to SMEs and Wider Reliefs for Inability to Perform Contracts](#)".

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## **Leases/Rental Agreements for Commercial Equipment and Commercial Vehicles**

With effect from 20 June 2020, renters of commercial equipment or commercial vehicles pursuant to a lease or rental agreement will be able to obtain temporary relief from certain types of legal action prescribed under the Act. The relief will apply until 19 October 2020.

The Act applies to "scheduled contracts" prescribed under the Act. The list of "scheduled contracts" in the Act was revised on 20 June 2020 to include a lease or rental agreement of the following commercial equipment and commercial vehicles:

- Any plant, machinery or fixed asset in Singapore that is used for manufacturing, production, or other business purposes; or
- A commercial vehicle (for example, a goods vehicle, excursion bus, school bus, private hire bus, an engineering plant such as a tractor, forklift and excavator), excluding taxis and private hire cars.

To qualify for temporary relief under the Act, the lease or rental agreement must satisfy the following key conditions:

- It must be entered into before 25 March 2020;
- The party to the lease or rental agreement is unable to perform an obligation in the contract that is due for performance on or after 1 February 2020; and
- The inability by a party to the lease or rental agreement to perform the contract must be to a material extent caused by a COVID-19 event. A COVID-19 event refers to the COVID-19 epidemic or pandemic or the operation of Singapore or foreign laws or any governments' orders or directions that are made in response to COVID-19.

The renter of a commercial equipment or commercial vehicle pursuant to a lease or rental agreement who intends to seek relief under the Act must serve a Notification for Relief on the other party or parties to the contract. Once the Notification for Relief has been served, the rental company is not allowed to take certain legal actions against the renter including:

- Repossessing the commercial equipment or vehicle;
- Unilaterally imposing new charges, increasing charges or interest rates beyond what is provided for in the agreement, unless certain conditions are met; or
- Commencing or continuing court proceedings or insolvency proceedings.

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In addition to the above, the Act also covers hire-purchase agreements for commercial equipment and commercial vehicles (including taxis and private-hire cars) as well as other "scheduled contracts" prescribed under the Act. For details relating to the "scheduled contracts", please refer to the Schedule to the Act or a [summary of the scheduled contracts](http://www.mlaw.gov.sg/covid19-relief) provided on MinLaw's website at [www.mlaw.gov.sg/covid19-relief](http://www.mlaw.gov.sg/covid19-relief).

## Enhancements to Temporary Relief Measures

Among other things, the Amendment Act introduces the following key changes to the Act:

- 1) Implementing a rental relief framework for eligible SME tenants and providing for additional relief for tenants;
- 2) Providing 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;
- 3) Imposing a limit on the liability of a debtor with regard to late interest or charges accrued under a scheduled contract due to his/her inability to pay any money due under the contract; and
- 4) Enhancing the temporary relief measures for an inability to perform a scheduled contract specified in the Act.

The changes in the Amendment Act relating to (1) the rental relief framework; (2) the 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; and (3) the additional relief from late payment interest or other charge **have yet to come into force**.

Briefly, the changes which are in force from **20 June 2020** include:

- Introducing a new section 5A of the Act which provides a moratorium on certain actions when a party to a scheduled contract is not or will not be able to exercise a right in the contract that is to be exercised on or after 20 June 2020. The inability to exercise the right in the contract must be to a material extent caused by a COVID-19 event. After the affected party has served the Notification for Relief on the other party to the contract and such other person as prescribed under the Act, the other party to the contract is not allowed to cause the forfeiture of any part of any consideration paid for the right or take any other prescribed actions until after a specified time/event.
- Enhancing the assessor's determination process. Under the Act, if a party to a scheduled contract is not able to come to an agreement with the counterparty for a compromise in relation to his/her obligations covered under the Notification for Relief, he/she may apply for an assessor's determination of the issues involved. Some of the changes to the Act which came into force on 20

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June 2020 include clarifying that the parties to an assessor's proceeding are subject to a statutory duty of confidentiality, permitting an assessor to make a wider range of determinations and to make a subsequent determination which varies or replaces the earlier determination, and allowing a party to an assessor's proceeding to be represented by an advocate and solicitor if permitted by the assessor.

For more details on the requirements relating to the Notification for Relief and an assessor's determination process, please refer to our Client Update on "[Statutory Moratorium Against Breach of Scheduled Contracts Starts 20 April 2020](#)".

## Further Information

For further queries, please feel free to contact our team below.

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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