

3 November 2020

[Updated on 5 November 2020]

Dear Sir/Madam,

**THE COVID-19 (TEMPORARY MEASURES) (AMENDMENT NO. 3) BILL:
(A) PART 8A (EXTENSION OF TIME FOR CONSTRUCTION CONTRACTS); AND
(B) PART 8B (TEMPORARY MEASURES FOR COST-SHARING IN CONSTRUCTION CONTRACTS)**

Objective

This circular informs the industry on the COVID-19 (Temporary Measures) (Amendment No. 3) Bill introduced in Parliament on Monday, 2 November 2020. The Government has announced additional relief measures to support stakeholders in the built environment (BE) sector affected by disruptions to construction timelines resulting from the COVID-19 pandemic.

Background

2 In Singapore, the COVID-19 pandemic has impacted the BE sector significantly. Construction works were stopped for approximately two months due to the Circuit Breaker and extended Circuit Breaker period, and upon resumption of works, projects have to face challenges such as reduced operating capacity because of the implementation of Safe Management Measures on site, lack of supply of migrant construction workers, and supply chain disruptions. This has resulted in delays and increased costs for construction projects, which have implications for all stakeholders along the value chain (i.e. contractors, suppliers, developers, purchasers), given the interconnected nature of the sector. To address the impacts of the COVID-19 pandemic, the Government has provided significant support and implemented several relief measures to help stakeholders across the entire value chain.

Additional Relief Measures for the Built Environment sector

3 While the BE sector has made progress, it continues to face challenges. It is in the interest of all stakeholders if the BE sector is able to preserve industry capacity, adjust to the new operating environment, and recover from the impact of the pandemic. The following additional relief measures will be introduced under the COVID-19 (Temporary Measures) Act to provide more support and ensure that no single stakeholder bears an undue share of the burden imposed by COVID-19:

- (A) Provide a universal Extension of Time (EOT) of 122 days, to address delays that arose during the period between 7 April 2020 and 6 August 2020 for construction contracts under Part 8A;
- (B) Require the co-sharing of additional non-manpower-related costs between contracting parties due to project delays caused by COVID-19 under Part 8B; and
- (C) Provide relief on the date of delivery of possession in agreements for the sale and purchase of housing, commercial and industrial property under Part 8C.

4 **Both relief measures (A) and (B) are scheduled to come into effect in end November 2020.** Further details of these amendments, together with the necessary changes in subsidiary legislation, are still being worked out and will be announced later.

(A) Universal Extension of Time (EOT) of 122 days [Part 8A] [Para 5 updated on 5 Nov 2020]

5 Construction work progress across the industry has faced disruptions due to the Circuit Breaker period and the emergence of COVID-19 infections amongst migrant workers living in dormitories. Hence, a universal EOT of 122 days to address delays that arose for the period between 7 April 2020 and 6 August 2020 will be provided to all construction contracts (including subcontracts):

- (a) that were entered into before 25 March 2020,
- (b) there were construction works that were not certified to be completed under the construction contracts as at 7 April 2020, and
- (c) that remained in force on 2 November 2020.

However, the EOT of 122 days will not apply to construction contracts where the contractors actually carried out works during the period from 20 April 2020 to 30 June 2020. The extended completion date will be treated as the new completion date for the purpose of the contract. **No application is required from contractors to enjoy this relief.**

6 This relief measure will give contractors more time to complete their projects, allow consistency of treatment across all affected construction contracts and provide certainty and assurance to the industry as they restart their projects. Part 8A will apply to both public and private sector construction projects.

7 Contractors which wish to seek a longer EOT will need to rely on contract provisions. They can also serve a Notification for Relief on the developer under Part 2 Section 6 of the COVID-19 (Temporary Measures) Act 2020, to seek a defence from any liquidated damages (LDs) payable under the contract due to delays sustained during the period starting from 1 February 2020 to 31 March 2021.

(B) Co-sharing of non-manpower-related additional costs between contracting parties [Part 8B] [Para 8 and 10 updated on 5 Nov 2020]

8 Given that construction work progress has been delayed by COVID-19, contractors would have to bear additional costs such as equipment rental, site maintenance, insurance payment and storage of materials. Hence, a new Part 8B has been introduced to effect the co-sharing of these additional costs sustained or incurred by the contractor arising from delay of works by the contracting parties, except for those items (e.g. manpower, COVID-Safe restart measures) which have been supported under existing support schemes. The **co-sharing percentage is 50% of the qualifying costs**, subject to a monthly cap of 0.2% of contract sum per month, and a total 1.8% of the contract sum until 31 March 2021. This relief is applicable to construction contracts:

- (a) that were entered into before 25 March 2020,
- (b) there were construction works that were not certified to be completed under the construction contracts as at 7 April 2020, and
- (c) that remained in force on 2 November 2020.

However, the relief is not applicable to construction contracts that involve individual persons (e.g. homeowners) engaging contractors other than individual persons acting as a sole proprietor in the course of business.

9 This relief measure will help ensure that no stakeholder bears an undue share of the burden caused by the pandemic, and minimise the risk of downstream contractors going under, which could in turn have knock-on impact on the entire value chain. Part 8B will apply to both public and private sector construction projects.

10 ***To enjoy this relief, contractors would need to make payment claims to the clients that engaged their services (e.g. main contractors claiming from developers, subcontractors claiming from main contractors), similar to the current payment claim process.*** In the event of disputes between the contracting parties regarding the co-sharing of additional costs, an adjudication application under the Building and Construction Industry Security of Payment Act (SOPA) can be submitted. SOPA adjudicators will be able to determine whether the relief applies and if so, the appropriate co-sharing amount between parties.

11 Please contact BCA at <https://www.bca.gov.sg/feedbackform/> for any enquiries on the above. More details will be announced later, before both relief measures (A) and (B) come into effect in end-November 2020. MND will separately provide more details on relief measure (C) on the relief for extension of date of delivery of possession for developers.

Thank you.

Yours faithfully

TAN CHEE KIAT
GROUP DIRECTOR
BUSINESS DEVELOPMENT GROUP
for CHIEF EXECUTIVE OFFICER
BUILDING AND CONSTRUCTION AUTHORITY