

Our ref: BCA ID 86.10.18

Procurement Policies Department
Business Development Group

12 May 2021
[Updated 29 September 2021]

Dear Sir/Madam,

THE COVID-19 (TEMPORARY MEASURES) (AMENDMENT NO. 3) BILL 2021 – PART 10A (RELIEFS FOR CONSTRUCTION CONTRACTS AFFECTED BY INCREASE IN FOREIGN MANPOWER SALARY COSTS)

Objective

This circular informs the industry on the COVID-19 (Temporary Measures) (Amendment No. 3) Bill 2021 passed by Parliament on Tuesday, 11 May 2021, which provides a relief framework to allow parties, such as contractors, to apply to adjust the contract sum for their projects, to address foreign manpower cost increases in respect of Work Permit Holders due to the COVID-19 pandemic.

Background

2 Firms in the construction industry continue to face challenges due to the COVID-19 pandemic. While construction works have resumed from August 2020, construction projects continue to face challenges as they experience manpower shortages and increases in manpower cost as a result of border control quotas that limit the inflow of migrant workers, including the recently tightened border measures.

Additional Relief Measure under the COVID-19 (Temporary Measures) Act 2020 (“COTMA”)

3 In view of the increased foreign manpower cost due to foreign manpower shortages caused by the COVID-19 pandemic, an additional legislative relief under Part 10A of the COTMA is provided to ensure that everyone along the value chain steps up to co-share the increased costs. This is part of the broader package of support measures introduced to help the Built Environment sector to preserve industry capacity, adjust to the new operating environment, and recover from the impact of the pandemic.

4 Part 10A of the COTMA will provide further support, by allowing an Assessor to adjust the contract sum of a construction contract that satisfies the stipulated criteria to address foreign manpower cost increase if parties to the contract are unable to re-negotiate the construction contracts. The relief period for this Part 10A will be from 1 Oct 2020 to 31 Dec 2021 (or any extended date as prescribed).

5 Contractors are encouraged to negotiate with their customers/clients (who procured their services) to reach a mutually agreeable arrangement to address the cost increase in respect of Work

Permit Holders performing the project. This will be applicable to every tier of construction contract (e.g. main contractors to negotiate with developers, subcontractors to negotiate with main contractors, etc).

6 Contractors can seek a determination by an Assessor to adjust the contract sum to address the cost increase of the Work Permit Holders should the negotiation be unsuccessful. The Assessor will consider the application and render an outcome which is just and equitable in the circumstances of the case. Details in respect of the adjustments that the Assessor may make will be set out in subsidiary legislation. The Assessor must consider all relevant factual circumstances, such as the loss suffered or benefit obtained by any contractual party, when deciding what is just and equitable.

7 **The industry will be informed on the commencement date of the legislative relief.** Further details of the relief, together with the subsidiary legislation, are still being worked out and will be announced later. You may contact us at <https://www.bca.gov.sg/feedbackform/> for any enquiries on the above.

Thank you.

Yours faithfully

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

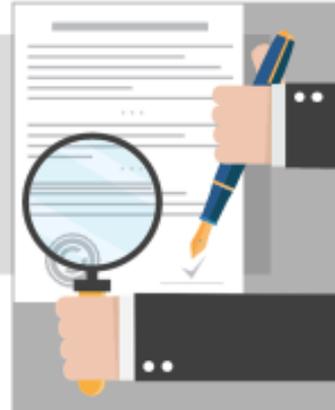
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COTMA Part 10A

Reliefs for construction contracts affected by increase in foreign manpower salary costs (Work Permit Holders)

#BEStrongSG

Contract parties to **negotiate** and **adjust** contract sum to take into account of increased foreign manpower salary costs incurred between 1 Oct 2020 to 31 Dec 2021.



If successful

If unsuccessful

NO NEED to apply for this relief & Parties proceed to adjust contract sum as negotiated



Contractor can seek determination from Assessor

NEW

Contractor to show documentation of reasonable attempts of negotiation. Examples of such documentation (but not limited to) could include **meeting minutes, correspondence, recordings, etc** of such attempts.

Assessor's determinations

a) Check eligibility

- Whether contract is eligible for relief
- Whether the contractor has made reasonable attempt to negotiate

If eligible

b) Make a determination

- Whether there is an increased foreign manpower salary costs during 1 Oct 2020 to 31 Dec 2021 due to COVID-19
- Whether it is just and equitable to adjust the contract sum based on the facts of the case

This infographic is for reference only. For a full appreciation of rights and obligations, please refer to the COTMA and seek legal advice. Further details of the relief, together with the subsidiary legislation, will be announced later.