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Procurement Policies Department
Business Development Group

29 September 2021

Dear Sir/Madam,

EXTENSION OF RELIEF PERIOD UNDER THE COVID-19 (TEMPORARY MEASURES) ACT FOR RELEVANT CONTRACTS IN THE BUILT ENVIRONMENT SECTOR

Objective

This circular informs the Built Environment (“BE”) sector on the extension of the prescribed period for legislative relief (“relief period”) related to the BE sector under Part 2, Part 8B and Part 10A of the COVID-19 (Temporary Measures) Act (“the Act”) from 30 September 2021 to 31 December 2021.

Background

2 The Built Environment sector has been adversely impacted by COVID-19. Challenges for construction firms persist even as we navigate towards becoming a COVID-resilient nation. Labour cost has increased due to restrictions in the inflow of migrant workers and projects are facing delays due to manpower tightness. In this regard, the Government will extend the temporary legislative relief related to the BE sector to help firms tide through this period to ensure that no single segment of the BE value chain bears a disproportionate share of the burden due to COVID-19.

Current relief measures under the Act

3 Part 2 of the Act provides temporary relief for a prescribed period, upon service of a Notification for Relief, from stipulated types of legal and enforcement actions in relation to the inability to perform contractual obligations due to COVID-19. **For construction and supply contracts, defaulting parties are also provided with a defence against the inability to perform a contractual obligation due to COVID-19, including disregarding of liquidated damages payable for such breaches** (even after the expiry of the Act, subject to filing of a Notification for Relief); and **the non-defaulting party is also prevented from calling on a performance bond during the relief period.**

4 Part 8B of the Act provides cost-sharing of additional non-manpower qualifying costs – rental of plant or equipment, cost for maintaining the construction site by third parties, cost for extending insurance or bond and rent for premises in Singapore for storage – between contracting parties due to delays caused by COVID-19.

5 Part 10A of the Act allow contractors to seek a determination from an Assessor to adjust the contract sum to address the increase in foreign manpower salary costs, i.e. salary costs of Work

Permit Holders, due to the COVID-19 pandemic, should contracting parties be unable to negotiate and reach a mutually agreeable arrangement to address the increase in such costs.

Extension of the relief period for Part 2, Part 8B and Part 10A

6 Given the above, the Ministry of National Development has announced an extension of the relief period under the Act in the following manner:

- a) **Part 2:** Construction firms affected by COVID-19 can seek temporary relief from legal and enforcement action for construction contracts or supply contracts, or any performance bond granted thereto, by serving a Notification for Relief (“NFR”) **at MinLaw’s website (<https://www.mlaw.gov.sg/covid19-relief/notification-for-relief>)** by 31 December 2021. **The defaulting parties (e.g. contractors or clients) will continue to be provided with defences to a claim for a breach of contract, including disregarding of liquidated damages, through filing a NFR.** If an agreement cannot be reached and there is a dispute as to whether the relief triggered by the NFR applies, either party may submit an application for an Assessor’s determination up to two months after the end of the relief period, i.e. latest by 28 February 2022.
- b) **Part 8B: Cost-sharing relief will apply to non-manpower qualifying costs, which arise due to delays caused by COVID-19 during the period from 7 April 2020 to 31 December 2021.** The cost-sharing percentage remains at 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. There is no change to the monthly cap of 0.2% and overall cap of 1.8%.
- c) **Part 10A:** Contractors can **apply for an Assessor to seek a determination to adjust the contract sum for the increase in foreign manpower salary costs, in respect of Work Permit Holders, due to COVID-19 during the period from 1 October 2020 to 31 December 2021** (a 3-month extension), if contracting parties are unable to reach an amicable outcome. Contractors may submit an application for an Assessor’s determination up to two months after the end of the relief period, i.e. latest by 28 February 2022.

7 Further details on the processes under Part 2 and Part 10A of the Act can be found at <http://www.mlaw.gov.sg/covid19-relief> and <http://go.gov.sg/cotma10a> respectively.

Thank you.

Yours faithfully

ANG LIAN AIK
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BUSINESS DEVELOPMENT GROUP
for CHIEF EXECUTIVE OFFICER
BUILDING AND CONSTRUCTION AUTHORITY

(Transmitted via email)