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ALERT
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Singapore Passes COVID-19 (Temporary Measures) Act 2020: Temporary Relief for Inability to Perform Contractual Obligations

The Act will provide temporary relief and protection against legal action for businesses and consumers impacted by the COVID-19 pandemic.

The COVID-19 (Temporary Measures) Act ("Act") which came into effect on April 7, 2020, aims to alleviate cash flow issues faced by business and consumers impacted by the COVID-19 outbreak, through deferral of certain contractual obligations and the prohibition of certain legal enforcement actions from being commenced during the effective period of the measures.

The Act will apply for an initial period of six months, with the possibility of an extension of up to six months for obligations under covered contracts entered into or renewed before March 25, 2020, that are to be performed on or after February 1, 2020, covered contracts under the Act include: (i) leases or licenses for non-residential immovable property; (ii) construction contracts or supply contracts; (iii) contracts for the provision of goods and services for events; and (iv) certain loan facilities granted to small and medium-sized enterprises.

The Act provides temporary relief against damages and a defense to claims for breach of a covered contract arising from an inability to perform an obligation that is caused to "a material extent" by a COVID-19 event. Further, calls on performance bonds that can be clearly referred to COVID-19 events will be restricted.

Businesses facing credit risks will also be granted temporary protection. Directors will be relieved from obligations to prevent wrongful trading, landlords will be restrained from terminating non-residential leases, a temporary moratorium on court and insolvency proceedings will be put in place, and enforcement of judgments or domestic arbitration awards (excluding international arbitrations) will be imposed. Enforcement of security over immovable property as well as movable property that is used for the purpose of trade will also be prohibited.

Parties who dispute that a non-performance of an obligation was due to COVID-19 will have the matter determined by an assessor appointed by the Registrar of Assessors. The assessor will have powers to grant relief to achieve a just and equitable outcome. There is no right of appeal from the assessment and parties cannot be represented by lawyers.



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