

EY Tax Alert (Special Edition)

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Important time-sensitive update:

Operating during the extended MCO

On 10 April 2020, the Government of Malaysia announced that the Movement Control Order (MCO) that was put in place to address the COVID-19 pandemic would be extended further, until 28 April 2020.

Previously, in addition to “essential services” (as defined), the Government had granted approval for manufacturing companies producing “essential goods” to operate (refer to Appendix II). Last Friday, the Government announced that selected additional economic sectors would also be allowed to operate during the extended MCO period, subject to approval and to health and safety protocols being met (refer to Appendix I). **It is important to note that:**

- i) **Approvals MUST be sought to operate; and**
- ii) **Previous approvals obtained may no longer be valid or may need to be updated**

In this Alert, we highlight the sectors which are able to operate during this period and the steps you would need to take to do so.

Does your business qualify?

| | | | |
|---|--|---|---|
| Aerospace industry | Automotive industry* | Construction projects and services related to construction works* | Machinery and equipment industry* |
| Science, professional and technical services, including research and development (R&D)* | Social health services including registered traditional and complementary medicine (TCM) practitioners | Hardware shops, electrical and electronic (E&E) shops | Laundry services (offering full-service only) |

Critical manufacturing sectors producing essential goods, or part of the supply chain of essential goods

* Limited to certain businesses only (refer to Appendix I)



The Ministry of International Trade and Industry (MITI) has announced that companies in the additional sectors allowed to operate (as outlined in Appendix I) can only commence operations after receiving approval from MITI. Applications for approval commence **13 April 2020**.

As part of the application process, today MITI published on its website four (4) Standard Operating Procedures (SOPs) documents, in Bahasa Malaysia, to outline the conditions (including health and safety protocols) to be adhered to (where applicable):

- ▶ [Prosedur Standard Operasi \(SOP\) Kebenaran Beroperasi Serta Pergerakan Pekerja Bagi Syarikat-Syarikat Dalam Tempoh Perintah Kawalan Pergerakan](#)

(SOP for Companies in relation to approvals for operation of businesses and movement of employees during the MCO Period)
- ▶ [Tatacara Operasi Standard \(SOP\) Industri Penyelidikan & Pembangunan \(R&D\) Dalam Tempoh PKP](#)


(SOP for the Research & Development Industry during the MCO Period)
- ▶ [Prosedur Operasi Standard Dan Garis Panduan Pengendalian Perkhidmatan Perubatan Tradisional Dan Komplementari Di Premis](#)

(SOP and Guidelines for Operating Traditional and Complementary Medicine facilities)
- ▶ [Prosedur Standard Operasi \(SOP\) Kebenaran Beroperasi Serta Pergerakan Pekerja Bagi Syarikat-Syarikat Perkilangan Dalam Tempoh Perintah Kawalan Pergerakan](#)

(SOP for Manufacturing Companies in relation to approvals to operate businesses and movement of employees during the MCO period)

In addition, MITI also released a Frequently Asked Questions (FAQs) document, titled “FAQ on Movement Control Order Ministry of International Trade and Industry No. 3” to provide additional information and clarification on other matters which were not addressed in the SOPs.

Some of the key points which should generally apply (unless stipulated otherwise in the SOP for specific industries) are highlighted below. Kindly note that these are not exhaustive and we reiterate that certain industry-specific protocols apply.



Who should apply to MITI now?

- ▶ Companies operating in the additional economic sectors (refer to Appendix I)
- ▶ Companies which had previously obtained approval from MITI to operate during the MCO period. This is encouraged as the new integrated system, i.e. COVID-19 Intelligent Management System (CIMS) 2.0, will automatically generate a QR code that will facilitate the movement of employees and monitoring of operations.
- ▶ Companies which have obtained approval from MITI to operate during the MCO period, but would like to increase their current workforce capacity or operate on a full-time basis
- ▶ Companies which have obtained approvals through other Ministries or government agencies to operate during the MCO
- ▶ Companies which had previously applied but were rejected or have not received a response
- ▶ Companies which are supplying products or services to companies which are allowed to operate. Examples of these could include the supply of raw materials, spare parts, maintenance services or logistics services.

What is the application process?

- ▶ Companies must submit the application and information (e.g. company registration details, correspondence and operation address (up to 10 locations), estimated revenue for 2017, 2018 and 2019, total number of employees and their details etc.) online through CIMS 2.0 at <https://application.miti.gov.my>.
- ▶ The submission can be lodged by any authorized representative of the company.
- ▶ Companies with multiple businesses and sites are required to lodge their applications separately. Construction companies need to apply individually for each project.
- ▶ The submissions will be assessed by MITI along with other relevant Ministries / Agencies based on the company's eligibility and stipulated criteria. This will involve cross-referencing across the various platforms used by the Ministries / Agencies, which include the following:
 - Ministry of Health (MOH)
 - Ministry of Home Affairs (MOHA)
 - Ministry of Domestic Trade and Consumer Affairs (MDTCA)
 - Ministry of Human Resources (MOHR)
 - Ministry of Works (MOW)
 - Ministry of Agriculture and Food Industries (MOA)
 - Ministry of Entrepreneur Development and Cooperatives (MEDAC)
 - Ministry of Plantation Industries and Commodities (MPIC)
 - Ministry of Housing and Local Government (MHLG)
 - National Security Council (NSC)
 - Royal Malaysia Police (RMP)
 - Construction Industry Development Board (CIDB)
 - SME Corporation Malaysia

- ▶ Employers are to confirm in the application that they will undertake the functions and responsibilities as outlined in the SOPs and guidelines issued by MOH and other relevant enforcement agencies. These include informing MITI in the event any employee is diagnosed with COVID-19.
- ▶ Businesses located in a Red Zone area are subject to the regulations of the NSC and relevant local authorities. Companies that are uncertain of their eligibility to operate during the MCO period may still submit applications through CIMS 2.0.
- ▶ The processing of an application will take up to five (5) days, and the status of the application will be updated in CIMS 2.0. Where successful, a letter of approval will be automatically generated by the system. Companies will be able to commence operations immediately upon receipt of the approval, subject to the conditions stipulated in the approval letter.

In the event an application is rejected, appeals can be lodged via CIMS 2.0. The appeal will be assessed on a case-by-case basis within five (5) working days.

What are the key conditions to be adhered to by businesses?

- ▶ To reduce the number of employees to a bare minimum, or to at least 70% of the current or registered employees, for the MCO period. The company is only allowed to operate based on the operating capacity approved by MITI. Companies should implement work-from-home policies for employees in non-critical functions.
- ▶ The approval to operate will depend on the zone as stipulated by the NSC, subject to conditions.
- ▶ A company may apply to operate on a full-time basis, but this is subject to MITI's approval. We believe that compelling reasons would need to be provided when making such a request to MITI. The operating hours are subject to the relevant SOP, or as determined by the NSC, State Government or local authorities.
- ▶ To prioritize fulfilling the demand and need of the domestic market for products or services. However, companies can seek approval from MITI to export their products as well.
- ▶ To submit to MITI the list of employees who are working during the MCO period and ensure that the movements of the employees are restricted between their homes and work premises only
- ▶ To appoint a coordinator to ensure that the steps to mitigate the spread of COVID-19 at the workplace are adhered to and to confirm compliance to the conditions to operate as stipulated by MITI and the Department of Occupational Safety and Health (DOSH)
- ▶ To educate employees by conveying and reiterating essential facts and preventive measures pertaining to COVID-19
- ▶ To establish a safer working environment, including the following:
 - To provide suitable personal protective equipment (PPE) to employees, where relevant
 - To provide the necessary tools (e.g. thermal scanners) and conduct body temperature tests every day at the entrance to work premises. Readings of the employees must be recorded and retained for at least three (3) months.
 - To provide hand sanitizer or disinfecting kits at the entrance and in all common areas

- To ensure proper sanitization and cleaning of the work premises per the guidelines issued by the MOH. Professional third-party service providers may be engaged for this purpose.
- ▶ To implement best-practice guidelines on social distancing, especially at areas such as the production floor, cafeteria / canteen, meeting rooms, *surau*, multi-purpose hall, construction sites, etc.
- ▶ In the event an employee is diagnosed with COVID-19, the company is to bear all necessary costs (including full medical expenses and cost of disinfecting the work premises). The company is also required to cooperate with the MOH in conducting the “contact tracing” process.
- ▶ To have an Emergency Response Protocol (ERP) in place in the event of any positive COVID-19 cases

What are the key conditions to be adhered to by employees?

- ▶ To adhere to the COVID-19 prevention guidelines as prescribed and updated by MOH from time to time
- ▶ An employee who is a “person under investigation” (PUI) or under home quarantine is not permitted to work at the office premises and must observe the relevant quarantine period.
- ▶ Foreign employees (who do not reside in Malaysia) are not permitted to work. There may be exceptions granted, subject to conditions.
- ▶ Employees who have just returned from overseas are required to be quarantined for 14 days prior to commencing work.
- ▶ Only employees residing within the same area / zone with the office premises are permitted to work based on the SOP and stipulated regulations. Other employees will need to be certified as negative for COVID-19 and quarantined for 14 days, before being allowed to work at the office premises.
- ▶ Where an employee listed on the current exemption list is on leave, the said employee can only be replaced by another employee who has been listed in the application submitted to MITI.

How will this be enforced?

- ▶ An approval letter will be issued to the company which has been approved to operate during the MCO period. The approval letter and appendices (if any) must be displayed at the work premises.
- ▶ The list of approved companies and their workforce will be submitted to the NSC, MOHA and RMP coordinating the enforcement operations. If an approved company or employee is detained or not allowed to operate by any authority, it or he/she must present the approval letter to facilitate checking of the approval in the integrated system. This system is accessible by enforcement agencies to enable them to verify whether a business has been granted permission to operate.
- ▶ The relevant enforcement agencies (e.g. RMP / the People’s Volunteer Corps (RELA) / Department of Labour (JTK) etc.) have the power to conduct inspections at any time

- ▶ Employees who are travelling must carry the relevant approval letters / movement permits at all times. Where relevant, such documentation should also be maintained in the company's vehicles.
- ▶ Taskforces will monitor compliance and manage reports of non-compliance.
- ▶ Where a company fails to comply with the stipulated conditions (e.g. number of employees, social distancing etc.), certain authorities have been given the power to shut down the work premises immediately. Violation of the relevant conditions may also result in a revocation of the approval.

In addition, any company found to have violated operating conditions may also be found guilty of a criminal offense under Regulation 7 of the Prevention and Control of Infectious Diseases (Measures Within the Local Area of Infection) 2020, which is punishable by a fine not exceeding RM1,000 or imprisonment not exceeding six (6) months or both. The company could also face legal action, subject to the relevant laws, regulations and by-laws related to the nature of the business.

For more information pertaining to the above matters, please reach out to your EY contacts for assistance.

MITI can be contacted via the following:

1. **E-mail:** miticovid19@miti.gov.my
2. **MITI COVID-19 Call Centre:** +603-6208 4949
3. **www.miti.gov.my**
4. **MITI Facebook, Instagram and Twitter**
5. **MITIMalaysia Youtube**

Other EY publications related to the Government's response to the COVID-19 pandemic and the Movement Control Order:

- ▶ Special Tax Alert No. 6/2020 - Additional stimulus measures announced, mainly for SMEs
- ▶ EY Take 5 dated 27 March 2020: COVID-19: Second Economic Stimulus Package 2020
- ▶ Special Tax Alert No. 5/2020 - IRB's response to the extended Movement Control Order
- ▶ Special Tax Alert No. 4/2020 - IRB's further response to the Movement Control Order (Updates)
- ▶ Special Tax Alert No. 3/2020 - IRB's further response to the Movement Control Order
- ▶ Special Tax Alert No. 2/2020 - Operations of the Royal Malaysian Customs Department (RMCD) during the enforcement period of the Movement Control Order
- ▶ Special Tax Alert No. 1/2020 - IRB's response to the Movement Control Order
- ▶ EY Take 5 dated 27 February 2020: Economic Stimulus Package 2020

Access the latest EY tracker on global economic and state aid measures:

- ▶ https://www.ey.com/en_gl/tax/how-covid-19-is-causing-governments-to-adopt-economic-stimulus--

A. List of additional sectors allowed to operate subject to conditions

1. Aerospace industry
2. Automotive industry (limited to exports of CBU, parts and components, as well as after-sale services, e.g. repair and maintenance)
3. Construction projects and services related to construction works:
 - Projects whereby the main contractors are G1-G2
 - Projects that have achieved physical progress of 90% and above
 - Tunneling works
 - Maintenance works
 - Sloping works
 - Emergency works that are consequent to contractual obligations
 - Maintenance, cleaning and drying of stagnant water, spraying of pesticides at construction sites which prevent the breeding of Aedes mosquitoes and other pests
 - Other works that if left incomplete may be hazardous
 - Building projects with 70 IBS score and above
 - Construction projects with accommodation facilities for workers, such as centralized quarters for workers
 - Professional services related to the construction industry, including architects, engineers, town-planners, land surveyors, quantity surveyors, project managers, facility managers as well as other relevant services
4. Machinery and equipment industry
5. Science, professional and technical services, including R&D (limited to legal services*, services incidental to oil and gas, R&D activities related to COVID-19, and testing labs for the sectors allowed to operate)
6. Social health services including registered traditional and complementary medicine (TCM) practitioners
7. Hardware shops and E&E shops
8. Laundry services (only those offering full-service and does not include self-service laundrettes)

*Editor's note: We note from press reports that legal firms have been asked to remain closed until further clarification is obtained on this point

List of critical manufacturing sectors producing essential goods, or part of the supply chain of essential goods allowed during the MCO period (based on announcement dated 18 March 2020)

A. List of essential goods

1. Food and beverage items including imported items
 - Rice
 - Sugar
 - Vegetable and animal oils and fats
 - Flour and all grain mill products
 - Bread
 - Water
 - Dairy products - milk, infant formula
 - Condiments and spices
 - Dry food
 - Coffee and tea
 - Canned food
 - Meat
 - Chicken
 - Animal feed
 - Processing of fruits and vegetable
2. Agriculture and fisheries including imports
 - Fish and seafood
 - Fruits
 - Vegetables
3. Household products
 - Detergents
 - Disinfectants
 - Sanitizers
 - Personal care items
 - Toilet paper and tissue paper
4. PPE including fire safety equipment and medical attire including face masks and rubber gloves
5. Pharmaceutical - all chemicals and drugs production
6. Packaging materials and printing, including ink
7. Medical and surgical devices
8. Parts for medical devices e.g. parts for ventilators

B. List of products that are part of the supply chain of essential goods supply chain

1. Oil and gas
2. Petrochemicals
 - Purified Terephthalic Acid (PTA) and Polyethylene Terephthalate (PET) resins
 - Polyester fibres and filaments
 - Polypropylene and polyethylene
 - Acrylonitrile Butadiene Styrene (ABS) and Methyl methacrylate Acrylonitrile Butadiene Styrene (MABS) resin
 - Maleic Anhydride
 - Polyvinyl Chloride (PVC) paste resin
 - Expanded polyethylene (EPE)
 - Impact modifiers and processing aids
 - Styrene Monomer
 - Styrene Butadiene Latex
 - Polystyrene
3. Chemicals and chemical products - fertilizers and pesticides
4. E&E including semiconductors

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