
First published in the Government *Gazette*, Electronic Edition, on 30 June 2021 at 7 pm.

No. S 497

**COVID-19 (TEMPORARY MEASURES) ACT 2020
(ACT 14 OF 2020)**

**COVID-19 (TEMPORARY MEASURES)
(PART 8C RELIEF)
REGULATIONS 2021**

ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

Regulation

1. Citation and commencement
2. Definitions

PART 2

GENERAL MATTERS

3. Prescribed qualifying cost
4. Amount prescribed as not being rent
5. Forms and documents
6. Prescribed mode of service
7. When service takes effect
8. Notice on extension of delivery date not exceeding 122 days
9. Notice of intention to extend delivery date exceeding 122 days
10. Notice of assessor's certification
11. Prescribed actions for section 39J(2)(b) of Act
12. Moratorium period
13. Prescribed amount for section 39K(1)(a) and (2)(a) of Act
14. Claim for reimbursement of qualifying costs
15. Prescribed period for purposes of section 39LA(1) of Act
16. Prescribed period for purposes of section 39LA(2) of Act
17. Recovery of damages paid by developer

PART 3
ASSESSOR'S DETERMINATION

Division 1 — Assessors

Regulation

18. Qualifications of assessors

Division 2 — Communications with Registrar and assessor

19. Communications by Registrar or assessor with parties to determination

Division 3 — Procedure for assessor's determination

20. Application for certification or determination
21. Reduction, waiver, etc., of fees
22. Apportionment of fees
23. Appointment of assessors
24. Hearing and determination by assessor
25. Where assessor unable to continue with proceedings
26. Where person directed to attend is absent from hearing
27. Determination must be unanimous where more than one assessor
28. Prescribed percentage under section 39O(1)(b)(ii)(B) of Act

Division 4 — Miscellaneous

29. Authorised nominating bodies
30. Effect of non-compliance
31. Correction of error in assessor's determination
32. Extension of time
33. Registry of Assessors
34. Records
35. Registrar's directives
36. Publication of determinations
-

In exercise of the powers conferred by section 39P of the COVID-19 (Temporary Measures) Act 2020, the Minister for National Development makes the following Regulations:

PART 1
PRELIMINARY

Citation and commencement

1. These Regulations are the COVID-19 (Temporary Measures) (Part 8C Relief) Regulations 2021 and come into operation on 1 July 2021 at 12.01 a.m.

Definitions

2. In these Regulations, unless the context otherwise requires —

“assessor” means an assessor appointed under section 39N(4) of the Act;

“determination” means a determination or certification under section 39O(1) of the Act;

“party”, in relation to a determination, means any party to the affected agreement in relation to which an assessor is to be appointed under section 39N(4) of the Act to make the determination;

“prescribed mode of service” has the meaning given by regulation 6;

“Registrar” means the Registrar of assessors appointed under section 39L(1) of the Act, and includes any Deputy Registrar of assessors exercising the functions of the Registrar of assessors;

“Registrar’s directives” means the directives issued by the Registrar under regulation 35;

“Registry” means the Registry of Assessors established under regulation 33;

“working day” means any day other than a Saturday, Sunday or public holiday.

PART 2
GENERAL MATTERS

Prescribed qualifying cost

3.—(1) For the purposes of Part 8C of the Act, “qualifying costs” (as defined in section 39G of the Act) includes the following:

- (a) any storage costs for any thing that would have been stored in the unit or units in question if there had been no delay in receiving possession of the unit or units and any costs for moving that thing to storage, incurred for the relevant period;
- (b) where the purchaser in question obtains alternative premises (whether by entering into a lease or licence agreement for any premises or extending the term of an existing lease or licence agreement for any premises) —
 - (i) any stamp duty or legal fees incurred for the agreement; and
 - (ii) subject to paragraph (2), any penalties incurred for the early termination of the agreement, if the relevant period ends before the end date of the agreement.

(2) Despite paragraph (1)(b)(ii), any amount of penalty in excess of the amount of one month’s rent under the lease or licence agreement mentioned in paragraph (1)(b), is not treated as qualifying costs for the purposes of Part 8C of the Act.

(3) In this regulation, “relevant period” means the period mentioned in paragraph (a) of the definition of “qualifying costs” in section 39G of the Act.

Amount prescribed as not being rent

4. For the purposes of Part 8C of the Act, “rent” (as defined in section 39G of the Act), in relation to any premises, does not include any security deposit given by (or on behalf of) a tenant or licensee to the landlord or licensor to secure the payment of rent or the performance of any other obligation of the tenant or licensee under the lease or licence agreement for those premises.

Forms and documents

5.—(1) The forms to be used for the purposes of these Regulations are those set out on the Internet website at <https://go.gov.sg/ura-covid-19-relief-measure>, and any reference in these Regulations to a numbered form is a reference to the current version of the form bearing the corresponding number that is displayed at that website.

(2) Every form to be served on any person or submitted to the Registrar or an assessor making a determination must —

- (a) contain such particulars;
- (b) comply with such requirements; and
- (c) be accompanied by such documents,

as may be specified —

- (d) in the form;
- (e) by the Registrar or the assessor; and
- (f) in the Registrar's directives,

whichever is applicable.

(3) Every form or document to be filed with a court must comply with such requirements as may be specified by the court or the registrar of the court.

(4) Any form may be used in a particular case with such variations as the circumstances of the case may require.

Prescribed mode of service

6.—(1) For the purposes of Part 8C of the Act and these Regulations, a person (*A*) serves a document on another person (*B*) by the prescribed mode of service if —

(a) in the case where *B* is an individual —

- (i) *A* delivers the document to *B* personally;
- (ii) *A* leaves the document with an adult apparently resident at *B*'s last known place of residence;

-
-
- (iii) *A* sends the document by prepaid registered post to *B*'s last known place of residence;
 - (iv) *A* affixes a copy of the document in a conspicuous place at *B*'s last known place of residence;
 - (v) *A* sends the document by fax to the fax number given to *A* by *B* as the fax number for the service of documents on *B*; or
 - (vi) *A* sends the document by email to the last email address given to *A* by *B* as the email address for the service of documents on *B*; and
- (b) in the case where *B* is a body corporate or an unincorporated association —
- (i) *A* leaves the document with an adult apparently employed at *B*'s last known place of business;
 - (ii) *A* sends the document by prepaid registered post to *B*'s last known place of business;
 - (iii) *A* affixes a copy of the document in a conspicuous place at *B*'s last known place of business;
 - (iv) *A* sends the document by fax to the fax number given to *A* by *B* as the fax number for the service of documents on *B*; or
 - (v) *A* sends the document by email to the last email address given to *A* by *B* as the email address for the service of documents on *B*.

(2) In paragraph (1), “document” includes a form.

When service takes effect

7.—(1) Service of a document on a person under Part 8C of the Act or these Regulations takes effect —

- (a) if it is delivered, left or affixed in accordance with regulation 6(1)(a)(i), (ii) or (iv) or (b)(i) or (iii) —
 - (i) at or before 5 p.m. on a working day — on the day that the document was delivered, left or affixed; or

- (ii) at any other time or day — on the next working day;
- (b) if it is sent by prepaid registered post in accordance with regulation 6(1)(a)(iii) or (b)(ii) — on the day that the document would in the ordinary course of post be delivered, unless it is returned undelivered;
- (c) if it is sent by fax in accordance with regulation 6(1)(a)(v) or (b)(iv) —
 - (i) at or before 5 p.m. on a working day — on the day of the transmission; or
 - (ii) at any other time or day — on the next working day;and
- (d) if it is sent by email to an email address in accordance with regulation 6(1)(a)(vi) or (b)(v) — at the time the email becomes capable of being retrieved by the person.

(2) In paragraph (1), “document” includes a form.

Notice on extension of delivery date not exceeding 122 days

8.—(1) A notice from the developer to the purchaser about the period of extension mentioned in section 39I(1) of the Act must —

- (a) be —
 - (i) in the case of the first extension of the delivery date — in Form 1; and
 - (ii) in the case of any subsequent extension of the delivery date — in Form 2; and
- (b) be served on the purchaser by a prescribed mode of service.

(2) For the purposes of section 39I(1)(b) of the Act, the prescribed time for the developer to notify the purchaser of the period of the extension is —

- (a) unless sub-paragraph (b) applies — any time within the period of 28 days starting on 1 July 2021; and

(b) if both the certificate of statutory completion and temporary occupation permit in respect of the housing accommodation or commercial property in question are issued or granted under section 12(1) or (3) of the Building Control Act (Cap. 29) on or after 1 July 2021, at any time —

(i) on or after 1 July 2021; but

(ii) before the expiry of a period of 28 days after the earlier of the following:

(A) the date that the certificate is issued;

(B) the date that the permit is granted.

Notice of intention to extend delivery date exceeding 122 days

9.—(1) A notice from the developer to the purchaser about the developer's intention to extend the delivery date of the affected agreement and the proposed period of extension, mentioned in section 39I(4) of the Act, must —

(a) be in Form 3; and

(b) be served on the purchaser by a prescribed mode of service.

(2) For the purposes of section 39I(4)(b) of the Act, the prescribed time for the developer to notify the purchaser of the developer's intention to extend the delivery date and the proposed period of extension is any time —

(a) after the developer has extended the original delivery date by a total period of 122 days under section 39I(1) of the Act; but

(b) before —

(i) unless sub-paragraph (ii) applies — 29 July 2021; and

(ii) if both the certificate of statutory completion and temporary occupation permit in respect of the housing accommodation or commercial property in question are issued or granted under section 12(1) or

(3) of the Building Control Act on or after 1 July 2021 — the expiry of a period of 28 days after the earlier of the following:

- (A) the date that the certificate is issued;
- (B) the date that the permit is granted.

Notice of assessor's certification

10.—(1) A notice from the developer to the purchaser about the assessor's certification mentioned in section 39I(6) of the Act must —

- (a) be in Form 4; and
- (b) be served on the purchaser by a prescribed mode of service.

(2) For the purposes of section 39I(6)(b) of the Act, the prescribed time for the developer to notify the purchaser of the assessor's certification is within 21 days after the Registrar notifies the developer of the assessor's certification under section 39O(1)(a) of the Act.

Prescribed actions for section 39J(2)(b) of Act

11. The following actions, in relation to the subject failure, are prescribed for the purposes of section 39J(2)(b) of the Act:

- (a) the commencement or continuation of an action in a court against the developer or the developer's guarantor or surety (including by amending the pleadings for any such action already commenced to include the subject failure in the action or claim for the subject failure);
- (b) the commencement or continuation of any arbitral proceedings under the Arbitration Act (Cap. 10) against the developer or the developer's guarantor or surety (including by amending the pleadings for any such proceedings already commenced to include the subject failure in the proceedings or claim for the subject failure);
- (c) the enforcement of any security over any immovable property;

-
-
- (d) the enforcement of any security over any movable property used for the purpose of a trade, business or profession;
 - (e) the making of an application under section 210(1) of the Companies Act (Cap. 50) for a meeting of creditors to be summoned to approve a compromise or an arrangement in relation to the developer or the developer's guarantor or surety;
 - (f) the making of an application for a judicial management order in relation to the developer or the developer's guarantor or surety;
 - (g) the making of an application for the winding up of the developer or the developer's guarantor or surety;
 - (h) the making of a bankruptcy application against the developer or the developer's guarantor or surety;
 - (i) the appointment of a receiver or manager over any property or undertaking of the developer or the developer's guarantor or surety;
 - (j) the commencement or levying of execution, distress or other legal process against any property of the developer or the developer's guarantor or surety, except with the leave of the court and subject to such terms as the court imposes;
 - (k) the repossession of any goods used for the purpose of a trade, business or profession under the affected agreement in question;
 - (l) the termination of the affected agreement in question;
 - (m) the enforcement against the developer or the developer's guarantor or surety of a judgment of a court, or an award made by an arbitral tribunal in arbitral proceedings conducted under the Arbitration Act.

Moratorium period

12.—(1) Subject to paragraph (2), where an application mentioned in section 39L(1)(a) of the Act is submitted in relation to the affected agreement in question in accordance with section 39N(1) of the Act, the prescribed date for the purposes of section 39J(3)(b) of the Act is —

- (a) unless sub-paragraph (b) applies — the last day of the period of 252 days after the date on which the developer notifies the purchaser of the developer’s intention to extend the delivery date in accordance with section 39I(4) of the Act; and
- (b) if both the certificate of statutory completion and temporary occupation permit, in respect of the housing accommodation or commercial property in question, are issued or granted under section 12(1) or (3) of the Building Control Act on or after 1 July 2021 — the last day of the period of 252 days after the earlier of the following:
 - (i) the date that the certificate is issued;
 - (ii) the date that the permit is granted.

(2) Despite paragraph (1), the prescribed date is (if earlier than the prescribed date under paragraph (1)(a) or (b) (as the case may be)) the last day of the period of 21 days after the date on which the Registrar notifies the developer of the assessor’s determination under section 39O(1)(a) of the Act.

(3) Where no application mentioned in section 39L(1)(a) of the Act is submitted in relation to the affected agreement in question in accordance with section 39N(1) of the Act, the prescribed date is the last day of the period of 56 days after the period within which that application must be submitted under regulation 20(4).

Prescribed amount for section 39K(1)(a) and (2)(a) of Act

13.—(1) For the purposes of section 39K(1)(a) of the Act, the prescribed amount is —

- (a) where the affected agreement was entered into between a purchaser and the Housing and Development Board — calculated according to the following formula:

$$(A + B) \times \frac{C}{365} \times \frac{42}{1000},$$

where —

- (i) A is the purchase price stated in the affected agreement for the purchase of the property in question;
 - (ii) B is —
 - (A) for a purchaser who is a permanent resident of Singapore, the premium payable under the affected agreement for the purchase of the property in question; and
 - (B) for a purchaser who is a citizen of Singapore, zero; and
 - (iii) C is the total number of days that the delivery date provided by the affected agreement is extended under section 39I(1) of the Act; and
- (b) where the affected agreement was entered into between a purchaser and any other developer — 70% of the liquidated damages that the developer would, but for the extension under section 39I(1) of the Act, be liable to pay to the purchaser under the affected agreement for failing to deliver possession of the unit or units in question on or before the original delivery date.

(2) For the purposes of section 39K(2)(a) of the Act, the prescribed amount is —

- (a) where the affected agreement was entered into between a purchaser and the Housing and Development Board — calculated according to the following formula:

$$\left[(A + B) \times \frac{C}{365} \times \frac{42}{1000} \right] - D,$$

where —

- (i) A is the purchase price stated in the affected agreement for the purchase of the property in question;
 - (ii) B is —
 - (A) for a purchaser who is a permanent resident of Singapore, the premium payable under the affected agreement for the purchase of the property in question; and
 - (B) for a purchaser who is a citizen of Singapore, zero;
 - (iii) C is the total number of days that the delivery date provided by the affected agreement is extended under section 39I(1) and (3) of the Act; and
 - (iv) D is the qualifying costs incurred that the developer is liable to the purchaser under section 39K(1)(a) of the Act; and
- (b) where the affected agreement was entered into between a purchaser and any other developer — 70% of the liquidated damages that the developer would, but for the extensions under section 39I(1) and (3) of the Act, be liable to pay to the purchaser under the affected agreement for failing to deliver possession of the unit or units in question on or before the delivery date, less the qualifying costs incurred that the developer is liable to the purchaser under section 39K(1)(a) of the Act.

(3) In this regulation, “Housing and Development Board” means the Housing and Development Board established by section 3 of the Housing and Development Act (Cap. 129).

Claim for reimbursement of qualifying costs

14.—(1) A claim by a purchaser for reimbursement of the qualifying costs incurred by the purchaser, mentioned in section 39K(3) of the Act, must —

- (a) be in Form 5;
- (b) contain the following information:
 - (i) the name, address and telephone number and email address (if any) of the purchaser;
 - (ii) a description of the qualifying costs that the purchaser is claiming;
 - (iii) the total claim amount;
 - (iv) such other information as may be specified —
 - (A) in Form 5; and
 - (B) in the Registrar’s directives;
- (c) be accompanied by such supporting documents as may be specified —
 - (i) in Form 5; and
 - (ii) in the Registrar’s directives; and
- (d) be served on the developer by a prescribed mode of service.

(2) For the purposes of section 39K(3)(b) of the Act, the prescribed time for a purchaser to claim reimbursement from the developer of the qualifying costs incurred by the purchaser, as permitted under section 39K(1)(a) of the Act, is any time —

- (a) unless sub-paragraph (b) applies —
 - (i) on or after 30 September 2021; but
 - (ii) before the latest of the following:
 - (A) 25 November 2021;

-
-
- (B) the expiry of the period of 56 days after the actual date of delivery of possession of the unit or units in question;
 - (C) the expiry of the period of 56 days after the date the developer notifies the purchaser of the assessor's certification in accordance with section 39I(6) of the Act (if applicable); and
 - (b) if both the certificate of statutory completion and temporary occupation permit in respect of the housing accommodation or commercial property in question are issued or granted under section 12(1) or (3) of the Building Control Act on or after 1 July 2021 —
 - (i) on or after 91 days after the earlier of the following:
 - (A) the date that the certificate is issued;
 - (B) the date that the permit is granted; but
 - (ii) before the latest of the following:
 - (A) the expiry of the period of 147 days after the earlier of —
 - (AA) the date that the certificate is issued;
 - (AB) the date that the permit is granted;
 - (B) the expiry of the period of 56 days after the actual date of delivery of possession of the unit or units in question;
 - (C) the expiry of the period of 56 days after the date the developer notifies the purchaser of the assessor's certification in accordance with section 39I(6) of the Act (if applicable).
 - (3) For the purposes of section 39K(3)(b) of the Act, the prescribed time for a purchaser to claim reimbursement from the developer of the qualifying costs incurred by the purchaser, as permitted under section 39K(2)(a) of the Act, is any time —
 - (a) after the assessor determines the application under section 39L(1)(a) of the Act in question; but

(b) before the expiry of a period of 56 days after the date the developer notifies the purchaser of the assessor's certification in accordance with section 39I(6) of the Act.

(4) For the purposes of section 39K(5) of the Act, the prescribed time after which the purchaser may take any action mentioned in section 39K(5) of the Act in relation to a claim made in accordance with section 39K(3) of the Act, is —

(a) in a case where no application under section 39L(1)(b) of the Act in relation to the claim is made in accordance with section 39N(1) of the Act — any time after the expiry of the period of 28 days after the date the purchaser makes the claim; or

(b) in any other case — any time after the expiry of the period of 21 days after the date the Registrar notifies the developer of the assessor's determination under section 39O(1)(b) of the Act in relation to the claim.

Prescribed period for purposes of section 39LA(1) of Act

15. For the purposes of section 39LA(1) of the Act, the prescribed period for the total period of all extensions within which a person must do a thing required under Part 8C of the Act, is 56 days.

Prescribed period for purposes of section 39LA(2) of Act

16. For the purposes of section 39LA(2) of the Act, the prescribed period within which an extension or an application for an extension of any period (within which a person must do a thing required under Part 8C of the Act) must be made, is the period of 56 days after the expiry of the period within which the person is required to do that thing under that Part.

Recovery of damages paid by developer

17. Where, for any liability in relation to the developer's failure to comply with the original delivery date under an affected agreement —

(a) a developer has, before 2 November 2020 —

- (i) paid any amount to a purchaser under the affected agreement; or
- (ii) reduced the amount of any instalment payable by the purchaser to the developer under the affected agreement; and

(b) by reason of section 39I(7)(b) of the Act, the liability for the failure to so comply is extinguished,

the amount so paid or the amount of the reduction is recoverable from the purchaser as a debt due to the developer, after the extended delivery date under the affected agreement.

PART 3

ASSESSOR'S DETERMINATION

Division 1 — Assessors

Qualifications of assessors

18.—(1) To be appointed an assessor to determine an application under section 39L(1)(a) of the Act, a person —

- (a) must have been conferred a degree or diploma in architecture, building studies, engineering, environmental studies, law, planning, real estate or urban design; and
- (b) must have at least 10 years of working experience in or relating to the building and construction industry in Singapore.

(2) To be appointed an assessor to determine an application under section 39L(1)(b) of the Act, a person —

- (a) must be a qualified person as defined in section 2(1) of the Legal Profession Act (Cap. 161) with at least 3 years of working experience in or relating to law;
- (b) must be a public accountant within the meaning given by section 2(1) of the Accountants Act (Cap. 2) with at least

3 years of working experience in or relating to accountancy;

- (c) must be a chartered accountant within the meaning given by section 2(1) of the Singapore Accountancy Commission Act (Cap. 294B) with at least 3 years of working experience in or relating to accountancy; or
- (d) must have at least 3 years of working experience in or relating to law, accountancy, finance, business management, building and construction or architecture.

Division 2 — Communications with Registrar and assessor

Communications by Registrar or assessor with parties to determination

19.—(1) The Registrar or an assessor may communicate with any party to a determination concerned —

- (a) by any means agreed between the Registrar or the assessor, and that party; and
- (b) subject to any requirements in the Registrar's directives.

(2) Where a party to a determination agrees to communicate with the Registrar or an assessor by any of the means in paragraph (1), that party must monitor that means for any communication from the Registrar or the assessor to that party, until the conclusion of the proceedings before the assessor.

(3) In this regulation —

- (a) a reference to the Registrar or an assessor includes an officer of the Registry duly authorised by the Registrar or the assessor to make or receive the communication on his or her behalf; and
- (b) a reference to a party to a determination includes any person who submits an application to the Registrar, in relation to which the Registrar has to determine whether an assessor is to be appointed under section 39N(4) of the Act.

*Division 3 — Procedure for assessor's determination***Application for certification or determination**

20.—(1) A developer who makes an application under section 39L(1)(a) of the Act must, within 7 days of making the application, serve notice of the application in Form 6 on every purchaser affected by the application, by a prescribed mode of service.

(2) An application under section 39L(1)(a) of the Act must —

(a) be in Form 7; and

(b) be submitted to the Registrar in such manner as may be specified in the Registrar's directives.

(3) An application under section 39L(1)(b) of the Act must —

(a) be in Form 8; and

(b) be submitted to the Registrar in such manner as may be specified in the Registrar's directives.

(4) For the purposes of section 39N(1) of the Act, the prescribed time, within which an application under section 39L(1)(a) of the Act must be submitted is —

(a) unless sub-paragraph (b) applies — any time on or after the date that the developer notifies the purchaser of the developer's intention to extend the delivery date and of the proposed period of extension in accordance with section 39I(4) of the Act but before 29 July 2021; and

(b) if both the certificate of statutory completion and temporary occupation permit in respect of the housing accommodation or commercial property in question are issued or granted under section 12(1) or (3) of the Building Control Act on or after 1 July 2021 — any time within the period of 28 days after the earlier of the following:

(i) the date that the certificate is issued;

(ii) the date that the permit is granted.

(5) For the purposes of section 39N(1) of the Act, the prescribed time, within which an application under section 39L(1)(b) of the Act must be submitted, is any time within the period of 28 days after the date that the purchaser makes a claim in accordance with section 39K(3) of the Act.

(6) For the purposes of section 39N(1) of the Act —

- (a) the prescribed application fee is \$0;
- (b) the prescribed certification fee is \$0;
- (c) the prescribed assessment fee for an application under section 39L(1)(a) of the Act is \$300 for every hour or part of an hour, for the total time that the assessor takes to determine the application, subject to —
 - (i) a minimum of \$12,000; and
 - (ii) a maximum of \$40,000; and
- (d) the prescribed assessment fee for an application under section 39L(1)(b) of the Act is \$100 for every hour or part of an hour, for the total time that the assessor takes to determine the application, subject to —
 - (i) a minimum of \$800; and
 - (ii) a maximum of \$2,400.

(7) For the purposes of section 39N(2) of the Act, an applicant who makes an application under section 39L(1)(b) of the Act must, within the period of 7 days after the date that the application is made, serve on the other party to the affected agreement notice of the application —

- (a) in Form 9; and
- (b) accompanied by a copy of the application and the declaration, information or document mentioned in section 39N(1)(d) of the Act.

Reduction, waiver, etc., of fees

21. The Registrar may, in any case, on such terms and conditions as the Registrar deems fit, reduce, waive or refund, in whole or part, any fee mentioned in these Regulations.

Apportionment of fees

22.—(1) For any fee payable for an application under section 39L(1)(b) or 39OA of the Act in relation to an affected agreement —

- (a) the developer under the affected agreement is liable for 70% of the fee; and
- (b) the purchaser under the affected agreement is, or (if there are 2 or more such purchasers) the purchasers are jointly and severally, liable for 30% of the fee.

(2) Any party (*A*) that pays the whole fee for an application under section 39L(1)(b) or 39OA of the Act, may recover the 70% or 30% (as the case may be) of the fee for which the other party (*B*) is liable under paragraph (1) by —

- (a) setting off against any instalment or other payment payable, in relation to the affected agreement, by *A* to *B*; and
- (b) taking any action to recover from *B*, as a debt due to *A*, the portion of the fee payable by *B* (to the extent that *B* has not paid that amount, and less any set-off effected by *A* under sub-paragraph (a)).

Appointment of assessors

23.—(1) If the Registrar has accepted an application mentioned in section 39N(1) of the Act, the Registrar must send to the parties, whose particulars are indicated in that application, the following:

- (a) a notice of acceptance;
- (b) a notice of appointment of one or more assessors;
- (c) a notice of the date and place for the hearing, if applicable.

(2) If an assessor has a direct or an indirect interest (whether pecuniary or otherwise) in an application that the assessor is appointed to determine, that results in a conflict of interest or potential conflict of interest, the assessor must —

- (a) disclose the nature of the interest to the Registrar;
- (b) abstain from hearing or making any determination in relation to the application; and
- (c) if the Registrar so directs, withdraw from all proceedings relating to the application.

(3) Without limiting paragraph (2), an assessor has an interest in an application that results in a conflict of interest if the assessor is related to any party to the affected agreement in question in the following manner:

- (a) the assessor is, at any time within the 3 years immediately preceding the date on which the application is submitted to the Registrar —
 - (i) an employee or a partner of the party;
 - (ii) a director or substantial shareholder of the party, where the party is a company or foreign company;
 - (iii) an employee, a director, a substantial shareholder or a partner of any corporation, partnership or limited liability partnership that owns or is owned by the party;
 - (iv) the sole proprietor of the party, where the party is a sole proprietorship; or
 - (v) a spouse, step-parent, stepchild, stepbrother or stepsister of the party;
- (b) the assessor is a child, parent or sibling of the party;
- (c) the assessor, or an affiliate of the assessor, has assisted the party to prepare any document for, or has provided any advice or service to, the party in relation to the affected agreement or the commercial development or housing development to which the affected agreement relates.

(4) In this regulation —

“affiliate”, in relation to an assessor, means —

- (a) an employee or employer of the assessor;
- (b) an individual who is employed by the assessor’s employer and who supervises or is supervised by the assessor;
- (c) a director of a company or foreign company in which the assessor is also a director;
- (d) a partner of a partnership or limited liability partnership in which the assessor is also a partner;
- (e) a child or stepchild of the assessor;
- (f) a parent or step-parent of the assessor; or
- (g) a spouse of the assessor;

“child” includes an adopted child;

“company”, “corporation” and “foreign company” have the meanings given by section 4(1) of the Companies Act;

“limited liability partnership” has the meaning given by section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“parent” includes an adoptive parent;

“partnership” means —

- (a) a partnership within the meaning given by section 1 of the Partnership Act (Cap. 391); or
- (b) a limited partnership registered under the Limited Partnerships Act (Cap. 163B);

“sibling” means a brother or sister, and includes an adopted brother or sister;

“substantial shareholder”, in relation to a company or a foreign company with a share capital, has the meaning given by section 81 of the Companies Act.

Hearing and determination by assessor

24.—(1) An assessor must, when carrying out his or her duties or exercising his or her powers under these Regulations, act independently, impartially and in a timely manner.

(2) A hearing is generally to be held in an asynchronous manner by exchange of email.

(3) However, an assessor may direct —

(a) the hearing be held via video conferencing, teleconferencing or other electronic means; or

(b) any party to the determination to attend before the assessor for a hearing,

if the assessor is of the opinion that the interest of justice would be better served if the hearing is held in the manner mentioned in sub-paragraph (a) or if the party to the determination attends before the assessor for the hearing, as the case may be.

(4) An assessor may issue such directions as are necessary or expedient for the conduct of the hearing, including a direction to a party to the determination to provide such further documents or information that the assessor requires to make a determination.

(5) An assessor may permit a person to be accompanied by an interpreter at the hearing.

(6) An assessor may at any time adjourn a hearing or fix a date for a further hearing.

(7) An assessor may dispense with a hearing and make a determination solely by reference to the forms and documents submitted, if the assessor is of the opinion that those forms and documents are sufficient for the assessor to make his or her determination.

Where assessor unable to continue with proceedings

25.—(1) If an assessor who is making a determination is unable for any reason to continue with the proceedings or determination, the Registrar may appoint a new assessor or assessors in place of that assessor to hear the proceedings or make the determination.

-
-
- (2) The new assessor may, as the justice of the case requires —
- (a) continue with the proceedings or determination from where the proceedings or determination had previously stopped; or
 - (b) hear the proceedings or make the determination afresh.

Where person directed to attend is absent from hearing

26.—(1) Where a person who is directed by the assessor to attend before the assessor for a hearing under regulation 24(3) is absent from the hearing, the assessor may continue to make a determination.

(2) A determination made under paragraph (1) may, on an application by the person mentioned in that paragraph, be set aside by the assessor or another assessor if that assessor is satisfied that the person had a good reason for being absent from the hearing, and that it is just in the circumstances to set aside the determination made in that person's absence.

(3) An application under paragraph (2) must —

- (a) be in Form 10; and
- (b) be submitted to the Registrar, and served on the parties to a determination concerned (but not on the person that submitted the application) by a prescribed mode of service, no later than 5 working days after the date of the assessor's determination made under paragraph (1) is sent to the parties to the determination or such longer period as the Registrar may allow.

(4) Any party to a determination that wishes to oppose the application for setting aside must, within a period directed by the Registrar, submit to the Registrar and serve on the person that submitted the application under paragraph (2), and every other party to the determination, by the prescribed mode of service, a reply in Form 11.

(5) Where an assessor hearing the application decides to set aside the determination made under paragraph (1) —

- (a) the assessor may do so on such terms as he or she considers just; and
- (b) he or she may proceed to hear the parties to the determination and make the determination in relation to the affected contract.

Determination must be unanimous where more than one assessor

27. Where more than one assessor is appointed to make a determination, the determination must be unanimous.

Prescribed percentage under section 39O(1)(b)(ii)(B) of Act

28. For the purposes of section 39O(1)(b)(ii)(B) of the Act, the prescribed percentage is 0%.

Division 4 — Miscellaneous

Authorised nominating bodies

29. An authorised nominating body appointed under section 39M of the Act must —

- (a) establish and maintain a register of assessors;
- (b) comply with any requirement of these Regulations; and
- (c) provide the Registrar with any information or document requested by the Registrar from time to time in relation to the activities of the authorised nominating body or the register of assessors established under paragraph (a).

Effect of non-compliance

30. Where, in any matter under this Part that is before the Registrar or any proceedings before an assessor, there has been a failure to comply with any requirement of these Regulations, that failure is treated as an irregularity and does not nullify the proceedings in question, any step taken in the proceedings, or any direction or order given by the Registrar or assessor, unless otherwise provided in these Regulations or directed by the Registrar or assessor.

Correction of error in assessor's determination

31. An assessor may, on his or her own motion or on the application of a party to the assessor's determination made in Form 12, correct any clerical mistake, or error arising from an accidental slip or omission, in the determination.

Extension of time

32.—(1) The Registrar may, before the date an assessor is appointed to make a determination —

- (a) on his or her initiative; or
- (b) on an application submitted to the Registrar,

and on such terms as the Registrar thinks just, extend, or further extend, in a particular case the period within which a party to the determination is required, by these Regulations or a direction of the Registrar, to submit to the Registrar, or serve on any other party to the determination, any document or form to be submitted to the Registrar, or served on another party to the determination, except that the total period of all extensions must not exceed 56 days.

(2) The assessor appointed to make a determination may, on or after the date the assessor is appointed to make a determination —

- (a) on his or her initiative; or
- (b) on an application submitted to the assessor by a party to the determination,

and on such terms as the assessor thinks just, extend, or further extend, in a particular case the period within which a party to the determination is required by these Regulations to submit to the assessor, or serve on any other party to the determination, any document or form to be submitted to the assessor, or served on another party to the determination, except that the total period of all extensions must not exceed 56 days.

(3) The Registrar or assessor may extend the period mentioned in paragraph (1) or (2) even though —

- (a) in the case of paragraph (1)(a) or (2)(a) — that period has expired; or

(b) in the case of paragraph (1)(b) or (2)(b) — the application for the extension is made after the expiration of that period, but only if the extension or the application for the extension (as the case may be) is made within 56 days immediately after the expiry of the period within which the party to the determination is required to do that thing under these Regulations.

Registry of Assessors

33.—(1) For the purposes of the administration of Part 8C of the Act and these Regulations, there is to be established an office called the Registry of Assessors.

(2) The Registry —

- (a) is under the control and supervision of the Registrar; and
- (b) provides administrative and secretarial support to the Registrar.

(3) The office hours of the Registry are —

- (a) between 9 a.m. and 4.30 p.m. from Monday to Friday (except public holidays); but
- (b) if any such day is the eve of the New Year, Lunar New Year or Christmas, between 9 a.m. and 12 noon.

Records

34.—(1) The Registrar must keep the records of every determination, including the documents submitted by parties to the determination to an assessor.

(2) The records may be kept in a manner and form determined by the Registrar.

(3) After an assessor has made a determination, a party to the determination may, on payment of any fee that may be prescribed by an order under section 46(1) of the Interpretation Act (Cap. 1) —

- (a) search the record relating to that determination; and
- (b) take a copy of the record.

(4) The records must be kept for a period of 2 years after the date of the assessor's determination.

Registrar's directives

35.—(1) The Registrar may issue directives for the purposes of these Regulations and for proceedings before an assessor.

(2) Without limiting paragraph (1), a Registrar's directive may provide guidance on the following:

- (a) documents and information that may be required by the Registrar or an assessor for an assessor's determination;
- (b) the practice and procedure for an application for an extension of time;
- (c) the practice and procedure for searching and taking copies of records of the Registrar kept under regulation 34.

Publication of determinations

36. Where, in the Registrar's opinion, an assessor's determination ought to be published, the Registrar may publish the facts of the case, the arguments and the determination without disclosing the names of the parties concerned or any information that may disclose their identities.

Made on 30 June 2021.

OW FOONG PHENG
Permanent Secretary,
Ministry of National Development,
Singapore.

[ND 202/01-079; AG/LEGIS/SL/65C/2020/15 Vol. 1]