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

COVID-19 (TEMPORARY MEASURES)
(PART 10A RELIEF) REGULATIONS 2021

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In exercise of the powers conferred by section 79K 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 10A Relief) Regulations 2021 and come into operation on 6 August 2021.

Definitions

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

“application” means an application under section 79F(1) of the Act for the Part 10A Registrar to appoint a Part 10A assessor to adjust the contract sum for the purpose mentioned in section 79C(2) of the Act;

“Part 2 Regulations” means the COVID-19 (Temporary Measures) (Temporary Relief for Inability to Perform Contracts) Regulations 2020 (G.N. No. S 303/2020);

“Part 10A Registrar's directives” means directives issued by the Part 10A Registrar under regulation 17;

“respondent”, in relation to an application, means the other party to the construction contract mentioned in section 79C(3) of

the Act with whom the applicant made a reasonable attempt to negotiate for an adjustment of the contract sum;

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

PART 2

GENERAL MATTERS

Prescribed later date for sections 79C(2) and 79G(1)(b)(i) of Act

2A. The prescribed later date for the purposes of sections 79C(2) and 79G(1)(b)(i) of the Act is 31 December 2021.

[S 723/2021 wef 29/09/2021]

Prescribed forms

3.—(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/cotma10a>, and any reference in these Regulations to a lettered form is a reference to the current version of the form bearing the corresponding letter that is displayed at that website.

(2) Every form to be served on any party or submitted to the Part 10A Registrar or a Part 10A assessor 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 Part 10A Registrar or the Part 10A assessor; and
- (f) in the Part 10A Registrar’s directives,

whichever is applicable.

Prescribed mode of service

4.—(1) In these Regulations, a person (*A*) serves a document on another person (*B*) by the prescribed mode of service if —

- (a) *A* sends the document to *B*'s last email address; or
- (b) where *A* is for any reason unable to send the document in the manner described in sub-paragraph (a) — *A* sends the document to *B*'s last postal address by prepaid registered post.

(2) In this regulation —

“document” includes a form;

“last email address” means —

- (a) an email address by which *A* corresponds with *B* on matters concerning the construction contract in question; or
- (b) if there is no such email address, an email address which *B* represents to *A* or to the public as the email address to which communications to *B* may be sent;

“last postal address” means —

- (a) the postal address designated by *B* for the purpose of receiving documents or communications under Part 10A of the Act or these Regulations; or
- (b) if *B* has not designated a postal address under paragraph (a) — *B*'s ordinary address;

“ordinary address” means —

- (a) in the case of a body corporate (including a limited liability partnership) or an unincorporated association —
 - (i) the body corporate's or unincorporated association's registered office, or principal office, in Singapore; or
 - (ii) in the absence of a registered office, or principal office, in Singapore, the body

corporate's or unincorporated association's last known place of business in Singapore;

- (b) in the case of an individual, the individual's usual or last known place of residence or business in Singapore; or
- (c) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore.

Electronic system

5.—(1) An electronic system is established for the purposes mentioned in paragraph (2).

(2) The purposes of the electronic system are —

- (a) to facilitate an application; and
- (b) to facilitate the submission of certain forms and documents to the Part 10A Registrar or a Part 10A assessor in relation to an application and the proceedings thereto.

(3) Regulation 8 of the Part 2 Regulations applies in relation to the use of the electronic system for the purposes in paragraph (1) as it applies in relation to the use of the electronic system for the purposes in regulation 7(2) of those Regulations.

PART 3

PART 10A ASSESSOR'S DETERMINATION

Division 1 — Part 10A assessors

Qualification of Part 10A assessors

6. To be appointed as a Part 10A assessor, a person —

- (a) must have been conferred a degree or a 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.

*Division 2 — Application and procedure for Part 10A
assessor's determination*

Prescribed time to make application

7. For the purposes of section 79F(1) of the Act, the prescribed time to make an application is the period between 6 August 2021 and 28 February 2022 (both dates inclusive).

[S 723/2021 wef 29/09/2021]

Application for Part 10A assessor's determination

8.—(1) An application under section 79F(1) of the Act must be in Form A.

(2) For the purposes of section 79F(2)(b) of the Act, an application must contain the following information:

- (a) the name, address, telephone number and email address (if any) of the applicant;
- (b) the name and address, and (if known to the applicant) the telephone number and email address of each of the following:
 - (i) the other party or parties to the construction contract;
 - (ii) any person who is the applicant's guarantor or surety, or who has issued any performance bond or equivalent, in relation to the carrying out of the construction works under the construction contract;
 - (iii) any assignee of any other party to the construction contract;
- (c) the following information about the construction contract in question:
 - (i) the parties to the construction contract;

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- (ii) the date the construction contract was entered into and the period in which the construction contract is in force;
 - (iii) if the construction contract was renewed on or after 1 October 2020, whether the construction contract was renewed automatically;
 - (iv) whether, as at 10 May 2021, there are any construction works to be performed under the construction contract that have not been certified in accordance with the construction contract as completed;
 - (v) whether the construction contract is for the carrying out of construction works at or on any residential property (within the meaning of the Residential Property Act (Cap. 274)) that do not require the approval of the Commissioner of Building Control under the Building Control Act (Cap. 29);
 - (vi) whether the construction contract has been terminated before 10 May 2021, and whether a notice for the termination of the construction contract was given in accordance with the construction contract before 10 May 2021;
- (d) documentary proof of the increase in the amount of foreign manpower salary costs incurred by the applicant in the period mentioned in section 79C(2) of the Act, over the amount which the applicant would otherwise have incurred, because of a COVID-19 event (called in these Regulations the manpower cost increase), and the period in which the manpower cost increase was incurred;
 - (e) a brief explanation of how the COVID-19 event had caused the manpower cost increase;
 - (f) the steps taken by the applicant to reduce the manpower cost increase;
 - (g) a declaration by the applicant that all information provided in the application is true and correct.

(3) The application must be accompanied by a copy of the construction contract in question or (if the construction contract in question is not in writing) a description of how the construction contract was made and its terms.

Application fee, etc.

9.—(1) For the purposes of section 79F(2)(c) of the Act, an application must be accompanied by the appropriate prescribed fee specified in the Schedule.

(1A) For the purposes of section 79H(1A) of the Act, the prescribed fee is the higher of the following:

- (a) 25% of the fee paid for the application to which the subsequent determination relates;
- (b) \$2,000.

[S 752/2021 wef 07/10/2021]

(2) The Part 10A 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.

(3) In this regulation, “subsequent determination” means a determination made under section 79H of the Act to vary or replace a determination made under section 79G or 79H of the Act.

[S 752/2021 wef 07/10/2021]

Prescribed matters and prescribed principles

10. For the purposes of section 79G(2)(a) of the Act, the following are prescribed matters and prescribed principles for a determination:

- (a) whether a party to the construction contract in question is entitled to obtain or has obtained —
 - (i) relief in respect of the manpower cost increase from any other person, under any other Part of the Act, under any other law or under any public scheme; or
 - (ii) any relevant rebate on the levy imposed by an order made under section 11(1) of the Employment of Foreign Manpower Act (Cap. 91A);

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- (b) the loss suffered or benefit obtained by any party to the construction contract in relation to the manpower cost increase;
 - (c) any adjustment of the contract sum proposed by the respondent during the negotiation mentioned in section 79C(3) of the Act;
 - (d) the impact that any proposed adjustment of the contract sum may have on another contract that any party to the construction contract has with a third party;
 - (e) any agreement between the parties to the construction contract in relation to the manpower cost increase.

Acknowledgment of application and service

11.—(1) If the Part 10A Registrar is satisfied that the application is in order, he or she must send to the applicant the following (called in these Regulations matters from the Part 10A Registrar):

- (a) an acknowledgment of receipt of the application;
- (b) either the form of the response in Form D or the electronic location at which that form may be obtained.

(2) For the purposes of section 79F(3) of the Act, the period for serving a copy of the application (together with the matters from the Part 10A Registrar) is 2 working days after the date the applicant receives the matters from the Part 10A Registrar.

(3) A copy of the application and the matters from the Part 10A Registrar must be served on the persons mentioned in section 79F(3)(a), (b) and (c) of the Act, in the manner specified in regulation 14(8) of the Part 2 Regulations which applies with the following modifications:

- (a) a reference in that provision to the last email address of a person is to —
 - (i) an email address by which the applicant corresponds with that person on matters concerning the construction contract in question; or

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- (ii) if there is no such email address, an email address which that person represents to the applicant or to the public as the email address to which communications to that person may be sent;
 - (b) a reference in that provision to the last postal address of a person is to —
 - (i) the postal address designated by the person for the purpose of receiving documents or communications under Part 10A of the Act or these Regulations; or
 - (ii) if the person has not designated a postal address under sub-paragraph (i) — the person’s ordinary address, within the meaning of regulation 2 of the Part 2 Regulations.

(4) The applicant must, within 2 working days after the service of the copy of the application and matters from the Part 10A Registrar on the persons mentioned in section 79F(3)(a), (b) and (c) of the Act, submit to the Part 10A Registrar a declaration in Form C of such service.

Response

12. A respondent may, no later than 5 working days after the respondent is served with the documents mentioned in regulation 11(3), submit to the Part 10A Registrar a response to the application in Form D, and serve on the following by the prescribed mode of service a copy of the response:

- (a) the applicant;
- (b) every other party to the construction contract in question;
- (c) every other person mentioned in section 79F(3)(b) and (c) of the Act.

Withdrawal of application

13.—(1) An applicant may at any time withdraw the application by serving a notice of withdrawal in Form B on the respondent by the prescribed mode of service.

(2) The applicant must also serve the notice of withdrawal on the following by the prescribed mode of service no later than one working day after the date of service of the notice of withdrawal on the respondent:

- (a) every other party to the construction contract in question;
- (b) every other person mentioned in section 79F(3)(b) and (c) of the Act.

(3) The applicant must also submit a copy of the notice of withdrawal to the Part 10A Registrar together with a declaration in Form C of service of the notice of the withdrawal on the persons mentioned in paragraphs (1) and (2), within 2 working days after the date of service of the notice of withdrawal on the respondent.

(4) To avoid doubt and subject to regulation 7, the applicant is not prevented by the withdrawal of the application from applying again for the appointment of a Part 10A assessor to make a determination.

Notice of appointment of Part 10A assessor and hearing

14. If the Registrar is satisfied that —

- (a) the application is in order;
- (b) a copy of the application and the matters from the Part 10A Registrar have been duly served; and
- (c) either —
 - (i) the response has been duly submitted and served; or
 - (ii) the time for the submission of the response has expired without one being served, and the applicant has complied with any direction of the Part 10A Registrar to contact the respondent by any means specified by the Part 10A Registrar,

the Part 10A Registrar must send to the applicant and the respondent —

- (d) a notice of the appointment of a Part 10A assessor; and
- (e) if applicable, a notice of the date and place for the hearing.

Other procedural matters

15.—(1) Regulation 6 of the Part 2 Regulations applies in relation to the service of any document under these Regulations as it applies in relation to the service of a document under the Part 2 Regulations.

(2) Regulation 12 of the Part 2 Regulations applies in relation to the submission of documents to the Part 10A Registrar or a Part 10A assessor under these Regulations as it applies in relation to the submission of documents to the Registrar or an assessor under the Part 2 Regulations.

(3) Regulation 13 of the Part 2 Regulations applies in relation to communications by the Part 10A Registrar or a Part 10A assessor with parties to a determination under these Regulations as it applies in relation to the communications by the Registrar or an assessor with parties to a determination under the Part 2 Regulations.

(4) Regulation 16 of the Part 2 Regulations applies in relation to an application or a response under these Regulations as it applies in relation to an application or a response under the Part 2 Regulations, and for this purpose, a reference to the Registrar in regulation 16(1) of the Part 2 Regulations is a reference to the Part 10A Registrar.

(5) Regulations 18 and 19 of the Part 2 Regulations apply in relation to a hearing and a determination by a Part 10A assessor under these Regulations as they apply in relation to a hearing and a determination by an assessor under the Part 2 Regulations.

(6) Regulation 20 of the Part 2 Regulations applies in relation to a hearing in which a party to the determination is absent under these Regulations as it applies in relation to a hearing in which a party to the determination is absent under the Part 2 Regulations, with the following modifications:

- (a) a reference to the Registrar in the Part 2 Regulations is to the Part 10A Registrar;
- (b) a reference to an assessor in the Part 2 Regulations is to a Part 10A assessor;
- (c) a reference to Form 9 in regulation 20(3)(a) of the Part 2 Regulations is a reference to Form E;

(d) a reference to Form 10 in regulation 20(4) of the Part 2 Regulations is a reference to Form F.

(7) Regulation 24 of the Part 2 Regulations applies in relation to a failure to comply with a requirement of these Regulations as it applies in relation to a failure to comply with a requirement of the Part 2 Regulations, with the following modifications:

(a) a reference to the Registrar in the Part 2 Regulations is to the Part 10A Registrar;

(b) a reference to an assessor in the Part 2 Regulations is to a Part 10A assessor.

(8) Regulation 25 of the Part 2 Regulations applies in relation to a determination under these Regulations as it applies in relation to a determination under the Part 2 Regulations, with the following modifications:

(a) a reference to an assessor in the Part 2 Regulations is to a Part 10A assessor;

(b) a reference to Form 11 in the Part 2 Regulations is a reference to Form G.

(9) Regulation 26 of the Part 2 Regulations applies in relation to the period to serve a party or submit to the Part 10A Registrar a document or form under these Regulations as it applies in relation to the period to serve a party or submit to the Registrar a document or form under the Part 2 Regulations.

Division 3 — General provisions

Registry of Assessors

16.—(1) For the purposes of the administration of Part 10A of the Act and these Regulations, there is to be established an office called the Registry of Assessors.

(2) The Registry of Assessors —

(a) is under the control and supervision of the Part 10A Registrar; and

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- (b) provides administrative and secretarial support to the Part 10A Registrar.
- (3) The office hours of the Registry of Assessors are —
- (a) between 8.30 a.m. and 6 p.m. of any day from Monday to Thursday (except public holidays);
- (b) between 8.30 a.m. and 5.30 p.m. on Friday (except public holidays); but
- (c) if any such day is the eve of the New Year, Lunar New Year or Christmas, between 8.30 a.m. and 12 noon.

Registrar's directives

17.—(1) The Part 10A Registrar may issue directives for the purposes of these Regulations and for proceedings before a Part 10A assessor.

(2) Without limiting paragraph (1), a Part 10A Registrar's directive may provide guidance on the following:

- (a) the practice and procedure for the use of the electronic system established under regulation 5;
- (b) documents and information that may be required by the Part 10A Registrar or a Part 10A assessor for a Part 10A assessor's determination;
- (c) the practice and procedure for an application for an extension of time;
- (d) the practice and procedure for searching and taking copies of records of the Part 10A Registrar kept under regulation 18.

Records and publication of determinations

18.—(1) The Part 10A Registrar must keep the records of every Part 10A assessor's determination, including the documents submitted by parties to a Part 10A assessor's determination.

(2) The records may be kept in a form and manner determined by the Part 10A Registrar.

(3) After a Part 10A 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 end of the prescribed period.

(5) Where, in the Part 10A Registrar's opinion, a Part 10A assessor's determination ought to be published, the Part 10A 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.

THE SCHEDULE

Regulation 9(1)

APPLICATION FEE

First column

Second column

Description

Application fee

1. For an application where the increase in the amount of foreign manpower salary costs incurred by the applicant at any time in the period mentioned in section 79C(2) of the Act, over an amount which the applicant would otherwise have incurred, because of a COVID-19 event, as stated in the application (called in this Schedule the claimed costs increase) —

- (a) does not exceed \$4,000
\$100,000

THE SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
<i>Description</i>	<i>Application fee</i>
(b) exceeds \$100,000 but does not exceed \$500,000	<p>An amount equal to the sum of —</p> <p>(a) \$4,500 for the first \$150,000, or any part of the first \$150,000, of the claimed costs increase; and</p> <p>(b) \$500 for every subsequent \$50,000, or any part of every subsequent \$50,000, of the claimed costs increase</p>
(c) exceeds \$500,000 but does not exceed \$1,500,000	<p>An amount equal to the sum of —</p> <p>(a) \$8,500 for the first \$600,000, or any part of the first \$600,000, of the claimed costs increase; and</p> <p>(b) \$500 for every subsequent \$100,000, or any part of every subsequent \$100,000, of the claimed costs increase</p>
(d) exceeds \$1,500,000 but does not exceed \$5,000,000	<p>An amount equal to the sum of —</p> <p>(a) \$13,500 for the first \$1,750,000, or any part of the first \$1,750,000, of the claimed costs increase; and</p> <p>(b) \$500 for every subsequent \$250,000, or any part of every subsequent \$250,000, of the claimed costs increase</p>
(e) exceeds \$5,000,000	<p>An amount equal to the sum of —</p> <p>(a) \$20,500 for the first \$5,500,000, or any part of the first \$5,500,000, of the claimed costs increase; and</p> <p>(b) \$500 for every subsequent \$500,000, or any part of every subsequent \$500,000, of the claimed costs increase,</p> <p>subject to a maximum of \$28,000</p>

Made on 4 August 2021.

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

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