

Full Movement Control Order

Guidelines as at 4 June 2021

In brief

The first phase of a Full Movement Control Order ("**FMCO**") came into force on 1 June 2021 and is currently scheduled to last until 14 June 2021, under the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) Regulations 2021 ("**FMCO Regulations**"). The FMCO introduces more stringent requirements to replace the previous Movement Control Order (in effect between 12 May and 31 May 2021) following the significant spike in COVID-19 cases in Malaysia.

In more detail

During the FMCO period, all businesses are **not permitted** to carry out operations at their business premises **unless** they:

1. provide essential services ("**Essential Service Providers**"), which include businesses that carry out any activity or process in the supply chain of such essential services; and
2. have obtained approval to operate from the relevant ministry regulating their respective sectors, through the COVID-19 Intelligent Management System (CIMS) 3.0 administered by the Ministry of International Trade and Industry (MITI) ("**CIMS Portal**"). The written approval ("**MITI Letter**") will have to be downloaded from the CIMS Portal following registration.

Essential Services

The FMCO Regulations currently define "essential services" as those industries set out in **Appendix A**.

MITI Letter

The MITI Letter is auto-generated upon application through the CIMS Portal and may be revoked by MITI if it deems the services of the applicant to be non-essential or if any applicable Standard Operating Procedures issued by the Malaysian government ("**SOPs**") have been breached by the applicant.

New MITI Letters have to be downloaded from the CIMS Portal for use during the FMCO period, as the MITI Letters issued prior to the FMCO have been invalidated since 4 June 2021 (which is an extension from the initial 1 June 2021 cut-off date).

Workforce Capacity

Save for certain sectors¹, all other Essential Service Providers are permitted to operate with a maximum of 60% of its workforce (including contingent workers/independent contractors) at the business premises at any one time, during the FMCO period. The remaining workforce are required to work from home.

Essential Service Providers can have varying number of workers present at the premises throughout the day, provided the capacity limit is complied with at all times.

¹ Prescribed manufacturing sub-sectors (as set out in Appendix A) are permitted to operate on 'warm idle' mode with only 10% workforce capacity. Certain sectors, such as healthcare, supermarkets (limited to essential goods section) and e-commerce, are allowed to operate at 100% workforce capacity.



Travel for Work

Employees undertaking work-related travel during the FMCO period will be required to carry the following documents, for inspection by the police:

1. the new MITI Letter issued to their employers; and
2. an authorization letter issued by their employers (or work permits for foreign employees).

For foreign employees, given that the work permits would not reflect authorization for work travel during the FMCO, it would be prudent for them to carry both their work permits and authorization letters during travel.

The specific location where the employees will be working (especially where the employee may not be working at the employer's registered business address) should be set out in the MITI Letter and the employer's authorization letter.

Other Conditions for Operations

The Malaysian government has issued SOPs for COVID-19 preventive measures during the FMCO period. Essential Service Providers must comply with SOPs applicable to their sectors, failing which they may be exposed to a fine not exceeding RM50,000, a temporary shutdown of their business premises and/or withdrawal of their operating licenses. A director, compliance officer, partner, manager, secretary or other similar officer of an offending business, may be held jointly liable for any breach of the requirements.

The Movement Control Order SOPs have been updated to impose tighter restrictions such as shorter operating hours, prohibition of face-to-face internal meetings and trainings, and the limitation of the number of passengers in company vehicles.

Conclusion

With the enforcement of the FMCO, companies must closely follow and monitor announcements and SOPs issued by the government, from time to time, and to strictly comply with the relevant requirements. Businesses are also advised to consider the impact of the FMCO on their contractual obligations to minimize liability arising from the FMCO restrictions.



Appendix A

1. Food and beverages including animal feed;
2. Healthcare and medical care including dietary supplement and veterinary services;
3. Water;
4. Energy;
5. Security, defense, emergency, welfare and humanitarian aid;
6. Solid waste management and public cleansing and sewerage;
7. Transport by land, water and air;
8. Port, dock and airport services and undertakings including stevedoring and transferring of cargo, pilotage, storing or bulking commodity;
9. Communications including media coverage, telecommunications and internet, postal and courier, and broadcasting for the purpose of delivery of information, news and the like;
10. Banking, insurance, takaful and capital market;
11. Pawn broking;
12. E-commerce and information technology;
13. Production, refining, storage, supply and distribution of fuel and lubricants;
14. Hotel and lodging for the purpose of quarantine, isolation, workers' lodging in essential services, and not for tourism;
15. Construction, critical maintenance and repair works;
16. Forestry services, limited to enforcement and wildlife;
17. Logistics, limited to delivery of essential services;
18. Manufacturing sectors which may operate at 60% workforce capacity:
 - a. Aerospace (component and maintenance, repair and overhaul (MRO));
 - b. Food and beverages;
 - c. Materials for packaging and printing materials in relation to food and beverages and healthcare and medical materials;
 - d. Personal care products and cleaning materials;
 - e. Healthcare and medical products including dietary supplement;
 - f. Personal protective equipment (PPE) including rubber hand gloves and fire safety equipment;
 - g. Components for medical devices;
 - h. Electrical and electronic goods;
 - i. Oil and gas including petrochemical and petrochemical products;
 - j. Machinery and equipment in relation to medical treatment and health services and food and beverages products;
 - k. Textile for the production of PPE;



- I. Production, distillation, storage, supply and distribution of fuel and lubricants;
19. Manufacturing sectors which may operate on warm idle mode at 10% workforce capacity:
 - a. Automotive (vehicles and components);
 - b. Iron and steel;
 - c. Cement;
 - d. Glass;
 - e. Ceramics;
 20. Agriculture, fisheries and husbandry;
 21. Farming and commodity, limited to palm, rubber, pepper and cocoa;
 22. Trading and retailing:
 - a. Basic essentials, personal care and animal care;
 - b. Laundry including launderette, spectacles and optical shop and hardware shop;
 - c. Petrol station including retail store at petrol station;
 - d. Car workshop, maintenance and spare parts;
 - e. Wholesaling and distribution for essential services products;
 23. Construction:
 - a. Maintenance and critical repair works²;
 - b. Major public infrastructure construction works³; and
 - c. Building construction works that provide workers' accommodations at construction sites or centralized labor quarters.

² Maintenance and critical repair works includes periodic inspections and the repair of lifts, travellers, escalators, railway tracks, and other critical mechanical and electrical equipment; repairs in private residences; and maintenance of clean and dry stagnant water and spraying of pesticides at construction sites to prevent the breeding of Aedes mosquitoes and other pests.

³ Construction of main public infrastructure includes the construction of collapsed Bailey bridges.



Contact Us



Brian Chia
Partner
Brian.Chia@WongPartners.com



Janice Tay
Partner
Janice.Tay@WongPartners.com



Sujintana Mongkolthanit
Senior Associate
Sujintana.Mongkolthanit@WongPartners.com



Aileen Yeo Sue Jen
Associate
Aileen.Yeo@WongPartners.com



Han Yang Quek
Legal Assistant
HanYang.Quek@WongPartners.com

© 2021 Wong & Partners. This client alert was issued by Wong & Partners, a member firm of Baker McKenzie International, a global law firm with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a "partner" means a person who is a partner or equivalent in such a law firm. Similarly, reference to an "office" means an office of any such law firm. This may qualify as "Attorney Advertising" requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

