

STATE OF SABAH

TEMPORARY MEASURES FOR REDUCING THE IMPACT OF CORONAVIRUS DISEASE 2019 (COVID-19) ENACTMENT 2020 (No. 5 of 2020)

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STATE OF SABAH

I assent,

TUN DATUK SERI PANGLIMA (DR) HAJI JUHAR
HAJI MAHIRUDDIN,
Yang di-Pertua Negeri.

14TH JANUARY, 2021.

No. 5 of 2020

An Enactment to provide for temporary measures to reduce the impact of Coronavirus Disease 2019 (COVID-19) including to modify the relevant provisions in the Land Ordinance 1930 [*Cap. 68*], the Housing Development (Control and Licensing) Enactment 1978 [*No. 24 of 1978*], the Islamic Family Law Enactment 2004 [*No. 8 of 2004*], the Syariah Court Civil Procedure Enactment 2004 [*No. 10 of 2004*] and the Native Courts Enactment 1992 [*No. 3 of 1992*].

ENACTED by the Legislature of the State of Sabah as follows :

PART I

PRELIMINARY

Short title and commencement

1. (1) This Enactment may be cited as the Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Enactment 2020.

(2) Except where the date of commencement and period of operation have been provided in respect of the respective Parts in this Enactment, this Enactment shall come into operation on the date of publication of this Enactment [14.01.2021] and shall continue to remain in operation for a period of two years from such date of publication.

(3) Notwithstanding subsection (2), the Chief Minister may, by order published in the *Gazette*, extend the operation of this Enactment and the order for extension may be made more than once.

(4) An order made under subsection (3) shall be laid before the Legislative Assembly as soon as practicable after its publication in the *Gazette*.

Modification to Enactments and Ordinance

2. The Land Ordinance 1930 [Cap. 68], the Housing Development (Control and Licensing) Enactment 1978 [No. 24 of 1978], the Islamic Family Law Enactment 2004 [No. 8 of 2004], the Syariah Court Civil Procedure Enactment 2004 [No. 10 of 2004] and the Native Courts Enactment 1992 [No. 3 of 1992] are modified in the manner specified in Parts II, III, IV, V, VI and VII respectively.

Prevailing law

3. In the event of any conflict or inconsistency between the provisions of this Enactment and any other written law, the provisions of this Enactment shall prevail and the conflicting or inconsistent provisions of such other written law shall be deemed to be superseded to the extent of the conflict or inconsistency.

Reference to COVID-19

4. In this Enactment, any reference to “COVID-19” is a reference to “Coronavirus Disease 2019 (COVID-19)”.

PART II

MODIFICATIONS TO THE LAND ORDINANCE 1930 [CAP. 68]

Commencement of modifications to the Land Ordinance 1930

5. This Part is deemed to have come into operation on 18 March 2020 and shall continue to remain in operation until 31 March 2021.

Limitation period in section 41 extended

6. Any limitation period to appeal specified in paragraph 41(1)(a) of the Land Ordinance which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

Limitation period in section 139 extended

7. Any limitation period specified in subsection 139(1) of the Land Ordinance which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

PART III

MODIFICATIONS TO THE HOUSING DEVELOPMENT (CONTROL AND
LICENSING) ENACTMENT 1978

Commencement of modifications to the Housing Development (Control and Licensing) Enactment 1978

8. This Part is deemed to have come into operation on 18 March 2020.

Interpretation

9. In this Part, “agreement” means agreement for the contract of sale for the sale and purchase of housing accommodation in the forms prescribed in Schedules G and H of the Housing Development (Control and Licensing) Rules 2008 entered into before 18 March 2020.

Late payment charges

10. (1) Notwithstanding any agreement entered into between the purchaser and the developer, where due to the measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to prevent or control the spread of COVID-19 the purchaser fails to pay any instalment for the period from 18 March 2020 to 31 December 2020, the developer shall not impose any late payment charges in respect of such unpaid instalment on the purchaser.

(2) The purchaser may apply to the Minister for an extension of the period referred to in subsection (1).

(3) Upon considering the application under subsection (2), the Minister may, if the Minister is satisfied that additional time is required by the purchaser, by written direction to the developer, extend the period in which the developer shall not impose any late payment charges on the purchaser in respect of such unpaid instalment up to 31 March 2021.

Delivery of vacant possession and liquidated damages

11. (1) Notwithstanding any agreement entered into between the purchaser and the developer, the period from 18 March 2020 to 31 December 2020 shall be excluded from the calculation of –

- a. the time for delivery of vacant possession of a housing accommodation; and
- b. the liquidated damages for the failure of the developer to deliver vacant possession of a housing accommodation.

(2) The developer may apply to the Minister for an extension of the period referred to in subsection (1).

(3) Upon considering the application under subsection (2), the Minister may, if the Minister is satisfied that additional time is required by the developer to deliver vacant possession, by written direction grant to the developer an extension period of up to 31 March 2021 to deliver vacant possession and such extension shall have the same effect as the period excluded in subsection (1).

(4) Notwithstanding any agreement entered into between the purchaser and the developer, if the purchaser is unable to enter into possession of occupation of a housing accommodation from the date of service of a notice to take vacant possession from the developer during the period from 18 March 2020 to 31 December 2020, or any extension period granted under subsection (3), the purchaser shall not be deemed to have taken such vacant possession.

Defect liability period

12. (1) Notwithstanding any agreement entered into between the purchaser and the developer, the period from 18 March 2020 to 31 December 2020 shall be excluded from the calculation of –

developer, the period from 18 March 2020 to 31 December 2020 shall be excluded from the calculation of—

- (a) the defect liability period after the date the purchaser takes vacant possession of a housing accommodation; and
- (b) the time for the developer to carry out works to repair and make good the defect, shrinkages and other faults in a housing accommodation.

(2) The purchaser may apply to the Minister for an extension of the period referred to in subsection (1).

(3) Upon considering the application under subsection (2), the Minister may, if the Minister is satisfied that additional time is required by the purchaser, by written direction, exclude the period up to 31 March 2021 from the calculation of —

- (a) the defect liability period after the date the purchaser takes vacant possession of a housing accommodation; and
- (b) the time for the developer to carry out works to repair and make good the defect, shrinkages and other faults in a housing accommodation.

Saving

13. (1) The modifications in sections 10, 11 and 12 shall not affect any legal proceedings commenced, or any judgment or award obtained, to recover late payment charges payable by the purchaser or liquidated damages payable by the developer or any other sum during the period from 18 March 2020 until the date of publication of this Enactment.

(2) Notwithstanding sections 10 and 11, any late payment charges that has been paid by the purchaser or liquidated damages that has been paid by the developer

before the date of publication of this Enactment shall be deemed to have been validly paid under the Housing Development (Control and Licensing) Enactment 1978 and its rules, and such payment shall not be refunded to the payer.

Modification to section 19N

14. Notwithstanding subsection 19N(3) of the Housing Development (Control and Licensing) Enactment 1978, if the limitation period for the purchaser to file a claim has expired during the period from 18 March 2020 to 31 December 2020, the purchaser is entitled to file the claim within sixty days after the date of publication of this Enactment and the Tribunal for Housing Purchaser Claims shall have jurisdiction to hear such claim.

PART IIIA

ADDITIONAL MODIFICATIONS TO THE HOUSING DEVELOPMENT (CONTROL AND LICENCING) ENACTMENT 1978

Interpretation

14A. In this Part –

- (a) “agreement” means an agreement for a contract of sale for the sale and purchase of housing accommodation in the forms prescribed in Schedules G and H of the Housing Development (Control and Licensing) Rules 2008; and
- (b) “first agreement” means the first agreement entered into between a purchaser and a developer for a housing accommodation in relation to a housing development under one housing developer’s licence and one advertisement and sale permit.

Late payment charges

14B. (1) In relation to a housing development, notwithstanding any agreement entered into between a purchaser and a developer, where due to measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of COVID-19, the purchaser fails to pay any instalment for the period from 1 April 2021 to 31 March 2022, the developer shall not impose any late payment charges in respect of such unpaid instalment on the purchaser.

(2) Subsection (1) applies only to a purchaser and a developer of a housing development for which its first agreement was entered into before 28 May 2021.

Delivery of vacant possession

14C. (1) In relation to a housing development, notwithstanding any agreement entered into between a purchaser and a developer, the period from 1 April 2021 to 31 March 2022 shall be excluded from the calculation of –

- (a) The time for delivery of vacant possession of a housing accommodation; and
- (b) The liquidated damages for the failure of the developer to deliver vacant possession of a housing accommodation.

(2) Subsection (1) applies only to a purchaser and a developer of a housing development for which its first agreement was entered into before 28 May 2021.

Taking of vacant possession

14D. Notwithstanding any agreement entered into between a purchaser and a developer, where due to measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of COVID-19, the purchaser is unable to take possession of a housing accommodation from the date of service of a notice to take vacant possession from the developer during the period from 1 April 2021 to 31 March 2022, the purchaser shall not be deemed to have taken such vacant possession.

Defect liability period

14E. (1) Notwithstanding any agreement entered into between a purchaser and a developer, in relation to any housing development, the period from 1 April 2021 to 31 March 2022 shall be excluded from the calculation of –

- (a) The defect liability period after the date purchaser takes vacant possession of a housing accommodation; and
- (b) The time for the developer to carry out works to repair and make good any defect, shrinkages and other faults in a housing accommodation.

(2) Subsection (1) applies only to a purchaser and a developer of a housing development for which its first agreement was entered into before 28 May 2021.

Saving

14F. (1) The modifications in sections 14B, 14C, 14D and 14 E shall not affect any legal proceedings commenced, or any judgement or award obtained, to recover late payment charges payable by the purchaser or liquidated damages payable by the developer or any other sum during the period from 15 January 2021 until the date immediately before the coming into operation of this Part.

(2) Notwithstanding sections 14B and 14C, any late payment charges that has been paid by the purchaser or liquidated damages that has been paid by the developer immediately before the coming into operation of this Part shall be deemed to have been validly paid under the Housing Development (Control and Licensing) Enactment 1978 and its rules, and such payment shall not be refunded to the payer.

PART IV

MODIFICATIONS TO THE ISLAMIC FAMILY LAW ENACTMENT 2004

Commencement of modifications to the Islamic Family Law Enactment 2004

15. This Part is deemed to have come into operation on 18 March 2020 and shall continue to remain in operation until 31 December 2020.

Limitation period in section 31 extended

16. Any limitation period specified in subsections 31(1) and (2) of the Islamic Family Law Enactment which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

Limitation period in section 57 extended

17. Any limitation period specified in subsection 57(1) of the Islamic Family Law Enactment which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

PART V

MODIFICATIONS TO THE SYARIAH COURT CIVIL PROCEDURE ENACTMENT
2004

**Commencement of modifications to the Syariah Court Civil Procedure Enactment
2004**

18. This Part is deemed to have come into operation on 18 March 2020 and shall continue to remain in operation until 31 March 2021.

Limitation period in section 139 extended

19. Any limitation period to file an appeal specified in subsection 139(4) of the Syariah Civil Court Procedure Enactment which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

PART VI

MODIFICATIONS TO THE NATIVE COURTS ENACTMENT 1992

Commencement of modifications to the Native Courts Enactment 1992

20. This Part is deemed to have come into operation on 18 March 2020 and shall continue to remain in operation until 31 March 2021.

Limitation period in section 20 extended

21. Any limitation period for filing Notice of Appeal specified in subsection 20(1) of the Native Courts Enactment which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

Limitation period in the Schedule extended

22. Any limitation period specified in the Schedule to the Native Courts Enactment which expires during the period from 18 March 2020 to 31 December 2020 shall be extended to 31 March 2021.

PART VII
MISCELLANEOUS

Commencement of this Part

23. This Part is deemed to have come into operation on 18 March 2020.

Extension of time to perform statutory duty or obligation

24. (1) The Minister charged with the responsibility for any Enactment or Ordinance may, if the Minister is of the opinion that any statutory duty or obligation is not possible to be performed within the time stipulated in such Enactment or Ordinance by any authority during the period from 18 March 2020 to 31 December 2020 due to the measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of COVID-19, by order published in the *Gazette*, extend the time for the authority to perform its statutory duties or obligations.

(2) Any order made under subsection (1) may be made to operate retrospectively to any date which is not earlier than 18 March 2020.

(3) No authority shall be liable to any damages in respect of any failure to perform any statutory duty or obligation within the time stipulated in such Enactment or Ordinance.

Alternative arrangement for statutory meeting

25. (1) The Minister charged with the responsibility for any Enactment or Ordinance may, if the Minister is of the opinion that any statutory meeting is not possible to be convened, held or conducted in the manner provided in such Enactment or Ordinance during the period from 18 March 2020 to 31 December 2020 due to the measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of COVID-19, by order published in the *Gazette*, provide for alternative arrangements for such meeting.

(2) Any statutory meeting convened, held or conducted not in the manner provided for in any Enactment or Ordinance regulating such statutory meeting on and after 18 March 2020 and before the making of the order under subsection (1) shall be deemed to have been validly convened, held or conducted.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Wednesday, the 23rd day of December, 2020.

DATUK HAJI KADZIM HAJI M. YAHYA,
Speaker,
State Legislative Assembly.