

## Client Alert

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## Approval Process and Standard Operating Procedures for Companies Operating During MCO

This alert follows our earlier client alert dated 11 April 2020 on the Second Extension of the Movement Control Order and the Resumption of Operations in Selected Sectors from 15 April 2020 to 28 April 2020 ("**Second Extension Period**")<sup>1</sup>.

On 13 April 2020, the Ministry of International Trade and Industry ("**MITI**") provided clarification on (i) the approval process for companies within the selected sectors; and (ii) standard operating procedures ("**SOP**") / conditions for companies which have received MITI approval to operate during the Second Extension Period.

### 1. Which companies can apply to MITI for approval to resume operations during the extended Movement Control Order ("**MCO**") period ("**Application**")?

Companies operating in the following selected sectors ("**Selected Sectors**") may make an Application:

- automotive industry (limited to exports of completely built-up, parts and components, after-sale services such as repair and maintenance);
- machinery and equipment industry;
- aerospace industry;
- construction projects and services related to construction works, limited to:
  - projects where the main contractors are G1 - G2 CIDB contractors;
  - projects that have achieved physical progress of 90% and above;
  - tunneling, maintenance or 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;
  - building projects with 70 IBS score and above;
  - other works that may result in danger if left incomplete;

<sup>1</sup> See the Client Alert: [Second Extension of the Movement Control Order and the Resumption of Operations in Selected Sectors](#) dated 11 April 2020.

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- construction projects with accommodation facilities for workers (e.g. centralised quarters for workers or workers' camp); and
  - 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);
  - 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);
  - social health services (including registered traditional and complementary medicine practitioners);
  - hardware shops, electrical and electronic shops; and
  - supply of products or services (e.g., raw materials or logistics services) to companies that are allowed to operate.

The list supplements (i) the list of essential services issued by the National Security Council on 18 March 2020, and (ii) the list of qualifying critical products that may be manufactured during the MCO, issued by MITI on 18 March 2020<sup>2</sup>.

Companies that are not certain if they are included in the list of sectors allowed to operate during the Second Extension Period may make an Application if they wish to operate during the Second Extension Period. These applicants will likely experience delays in the processing of their Applications given that MITI has received over 100,000 applications in the first day the portal opened.

## **2. My company supplies materials / services to those that fall within the list of Selected Sectors. Can my company submit an Application?**

Yes, suppliers of products / services (such as raw materials and logistic services) to companies that are allowed to operate, may submit an Application. These companies can only operate upon approval by MITI.

## **3. How does a company submit an Application?**

- Submission of the Application is via the COVID-19 Intelligent Management System (CIMS) 2.0 at <https://application.miti.gov.my>.
- Applications are to be submitted by an authorised representative of the company. Companies with multiple businesses and operating premises may only list up to a maximum of 10 addresses in the Application. Unless special exemption is obtained, approved companies are limited to operating from the 10 locations listed.

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<sup>2</sup> See Appendix 2 of the MITI FAQ on the Movement Control Order (No.3): [https://www.miti.gov.my/miti/resources/FAQ\\_MITI\\_BIL\\_3.pdf](https://www.miti.gov.my/miti/resources/FAQ_MITI_BIL_3.pdf)



- All Applications must be accompanied by an undertaking that the company will perform the duties and responsibilities as set out in the SOP, guidelines issued by the Ministry of Health or any other relevant enforcement agencies.

#### **4. What information is required to make an Application?**

Companies are required to submit the following information:

- company registration details (company name, SSM number, local authority name or licence number, date of incorporation);
- correspondence address of the applicant;
- company operation address (a maximum of 10 can be submitted);
- manufacturing licence / local authority licence numbers;
- pre-declaration for SMEs (to confirm that the company is not a public listed company in Malaysia or other countries, or the company is not a subsidiary of a public listed company, large firms, multinational corporations, government-linked companies, companies incorporated by the Ministry of Finance or state-owned enterprises);
- estimated revenue and total number of employees for Years 2017, 2018 and 2019;
- breakdown of the number of existing employees of the applicant, according to their responsibilities as at 15 March 2020;
- economic activity cluster / product or business activity of the company;
- details of contact person (name, designation, telephone number, email address); and
- list of employees (name, citizenship, passport or NRIC number).

The requirement to submit information relating to (i) customers, and (ii) suppliers, have been removed following technical issues encountered by the CIMS 2.0 system due to the volume of applications.

#### **5. How long will it take to find out the outcome of the Application submitted by my company? If the Application is rejected, can an appeal be submitted?**

- MITI has represented that the outcome of the Application will be available on CIMS 2.0 within 5 days of a complete submission. Where the information provided in the Application is unclear or incomplete, the 5-day timeline is unlikely to be met.
- If the Application is successful, CIMS 2.0 will auto-generate an approval letter to the company that will contain a QR code specific to the company. The QR code will be used by the relevant authorities to confirm the validity



of the approval and specific conditions that may have been imposed on the entity, as part of enforcement efforts.

- If the Application is rejected, an appeal can be made via CIMS 2.0. Appeals are decided on a case-by-case basis and MITI will decide on the outcome of the appeal within 5 days of submission of a complete appeal.

**6. Will companies which have obtained MITI approval to operate during the Phase 1 & 2 of the MCO, be required to submit an Application? ?**

Companies are encouraged to reapply. The new auto-generated approval letters from MITI will contain a QR code that will facilitate the movement of workers who are likely to encounter roadblocks.

Companies may also update its company information (if any) on the portal. For example, it may wish to apply to:

- (a) include up to 10 different company addresses where the company carries out its operations;
- (b) increase its workforce capacity; and/or
- (c) increase its operation hours.

**7. Will companies that have obtained approvals from other Ministries such as the Ministry of Health / Ministry of Domestic Trade and Consumer Affairs ("MDTCA") / Ministry of Agriculture and Food Industries to operate during Phase 1 & 2 of the MCO, be required to also submit an Application?**

Yes, the companies should submit the Application. While the prior approval from other Ministries (e.g MDTCA) will still be valid and will entitle the holder to operate during the Second Extension Period, these companies are encouraged to submit an Application to facilitate administrative checks by authorities via the QR Code.

**8. If a company with MITI / MDTCA approval to operate during the MCO Phase 1 & 2 would like to increase its workforce capacity, can the company re-apply?**

Yes, all companies with prior approval from MITI may re-apply for additional capacity.

Manufacturing companies can apply for approval to operate a shift system that allows them to carry on operations for 24 hours a day. MITI will consider these applications on a case-by-case basis.

**9. Are companies allowed to resume operations and/or increase its workforce capacity while an Application is pending?**

No. Companies (with no prior approval from MITI or other Ministries e.g. MDTCA) can only operate with an approval letter issued by MITI (with the QR



code). Companies are allowed to commence operations immediately upon receipt of the approval, subject to the conditions set out in the approval letter.

Companies with prior approval (whether from MITI or other Ministries e.g. MDTCA) can continue to operate during the Second Extension Period. They will not be allowed to increase its workforce capacity beyond what was stated in the prior approval until the application to increase its workforce capacity is approved by MITI.

#### **10. Upon receipt of the MITI approval, what are the next steps the company should take?**

The company should:

- (a) display the approval letter from MITI at its premises;
- (b) provide the list of employees whose names were submitted as part of the Application and permitted to work during the Second Extension Period ("**Approved Employees**"), to the nearest police station; and
- (c) provide a copy of the MITI approval letter to the Approved Employees and advise them to bring the letter during their travels to and from work.

While it is unclear whether these requirements apply to companies with pre-existing MITI approval, it is our view that these companies should comply with these requirements for prudence to mitigate unexpected disruptions.

#### **11. Are logistics and transportation companies servicing companies with MITI approval allowed to operate?**

The logistics division of MITI-approved companies are allowed to operate but their movements are subject to rules set by the National Security Council and the Ministry of Transport.

Third party or private logistics companies ("**Logistic Companies**") with no prior approval may apply to MITI for approval to operate. Logistic Companies with prior approval from other Ministries (e.g. MDTCA) may continue to operate during the Second Extension Period but these companies are encouraged to submit an Application and obtain the MITI approval letter to facilitate administrative checks.

Logistics Companies or logistic divisions of MITI-approved companies must provide its employees with a copy of the company's approval letter from MITI as well as identification documents (e.g. company ID) during the employee's journey to facilitate movement and delivery. However, interstate travel is subject to the security and health protocols as determined by the Malaysian National Security Council, Royal Malaysia Police and Ministry of Health. Operating hours of logistics companies and divisions are also subject to the rules stipulated by the Ministry of Transport.



### **12. Are all employees of a company allowed to return to the workplace?**

No. Companies in the Selected Sectors are only allowed to operate with 50% of their workforce or the operating capacity approved by MITI. The list of Approved Employees must be submitted to MITI as part of the Application.

Companies must ensure that the remaining employees who are not required to return to the workplace have a viable system that allows them to work from home.

### **13. Are employees allowed to work outside normal office hours?**

#### Manufacturing companies

Manufacturing companies are allowed to operate from 8am - 8pm. A manufacturing company may apply to MITI for approval to carry out 24-hour operations and also include a list of workers who will be working on a shift rotation.


#### All other companies

The operating hours for all other companies are subject to the hours stated in the SOP for their respective sectors.

### **14. Are there any safety procedures a company must comply with during the MCO period?**

Yes, companies must:

- (a) appoint one or more coordinators to streamline preventative measures on COVID-19 outbreaks at work and update MITI and the Department of Occupational Safety and Health (DOSH) on the status of compliance with approval conditions;
- (b) provide appropriate briefing to its employees in relation to COVID-19 outbreaks and preventative measures;
- (c) provide each employee with Personal Protective Equipment (e.g., masks), especially for employees who often come into contact with the public;
- (d) carry out thermal scanning daily at the entrance of the factories / premises and the thermal records must be kept for at least 3 months for reference;
- (e) provide hand sanitizers and face masks at the entrance and common areas of the factories / premises;
- (f) refuse entry for employees with a body temperature above 37.5° Celcius and refer the employee to the company's panel clinic or the nearest clinic;
- (g) immediately report to the nearest Health Department if there is an increase in employees on medical leave due to fever or COVID-19 related symptoms;

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- (h) sanitize and disinfect the premises before each shift or before commencement of operations, and at least 3 times day in the common areas;
  - (i) prepare best practice guidelines on social / safe distancing in common areas;
  - (j) ensure an effective air ventilation system;
  - (k) cafeteria and canteens are only allowed to serve take-away food and the company is to ensure there are staggered lunch breaks;
  - (l) provide transportation for its employees, which is in compliance with social distancing measures and the vehicles must be sanitized and disinfected after each use. The transportation provided must comply with restrictions set by the National Security Council from time to time;
  - (m) ensure that Malaysian workers who have just returned from abroad are not allowed to work immediately. They must first be quarantined for 14 days from the date of arrival to Malaysia; and
  - (n) adopt an Emergency Response Protocol setting out the steps to be followed in the event of a COVID-19 infection or investigation at the workplace.

**15. What should a company do if an employee is infected with COVID-19?**

Where an employee is infected with COVID-19, a company must:

- (a) inform the Ministry of Health immediately;
- (b) bear the medical fees of the infected employee;
- (c) disinfect the company's premises; and
- (d) assist the Ministry of Health in performing contact tracing.

**16. Are there any additional safeguards for specific sectors?**

There are additional requirements imposed on manufacturing companies in amongst others, the Aerospace Industry, Machine Manufacturing Industry (and businesses that provide machinery support services to its customers), Automotive Industry and Glass and Cement Industry.

**17. Can an employee deemed a 'person under investigation' by the MOH continue to work during the MCO if their employers have received approval from MITI?**

No, a person under investigation or home observation order cannot work in the business premise and is required to complete the period of isolation imposed by the Ministry of Health.

**18. Are visitors allowed onto the premises / factories of manufacturing companies?**



Visitors are not encouraged. They would require prior approval from both the company's management as well as the visitor's employer before arriving at the company's premises / factory. The company must provide the visitors with a face mask and undergo thermal scanning at the entrance.

### **Conclusion**

The introduction of a QR Code within the auto-generated approval letters from MITI is a welcomed progress as employees are likely to encounter roadblocks when travelling to or from work or interstate for work purposes. The QR Code will facilitate administrative checks and lend efficacy to the monitoring process during the MCO.

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