

WHAT DOES THE COVID 19 CRISIS MEAN FOR VICTIMS OF FRAUD?

COUNTRY: SINGAPORE

1 The most critical phase of the crisis

As long as measures to prevent the spread of Covid-19 restrict freedom of movement: What are the effects of the Covid-19 crisis on civil justice?

- Is there special legislation on the effects of the crisis on civil justice?

The Singapore Parliament has passed the COVID-19 (Temporary Measures) Act 2020 (the “**Act**”), which came into force on 7 April 2020. The Act seeks to offer temporary measures to relief businesses and individuals who find themselves unable to perform obligations under certain scheduled contracts due to the ongoing COVID-19 pandemic.

In addition, the Act also sets out temporary measures for court proceedings, specifically in relation to the conduct of court proceedings using remote communication technology. While existing legislation require an accused person or witness to be present in court to give evidence in persons, the Act has provided courts with the power to order such person to give evidence by means of live video or television link instead, removing the need to physically appear in court.

With regard to the other changes to the conduct of court proceedings, the various courts are operating by issuing Registrar’s Circulars to provide lawyers and parties with timely guidance.

Under the Act, the Minister for Health is also empowered to impose control orders on individuals, businesses and premises. The Minister for Health has just put in place the COVID-19 (Temporary Measures) (Control Order) Regulations 2020 (the “**Regulations**”) from 7 April 2020 until 4 May 2020 (the “**Relevant Period**”) to suspend activities at all workplace, subject to certain exemptions for essential services. Individuals in non-essential services may only continue to work from their home.

At present, legal services in general are not essential services; only certain categories of legal activities that are urgent and essential have been included in the exhaustive list of essential services under the Regulations. These include urgent matters specified in the Registrar’s Circulars issued by the courts, where attendance by the solicitor is required by the court.

- Does the crisis have an effect on court hearings?

In line with the Regulations, the various courts (Supreme Court, State Courts and Family Justice Courts) have announced that they will restrict hearings to only essential and urgent matters in the Relevant Period. All other matters will be adjourned to a later date to be fixed. Registrars’ Circulars have been issued by each court to identify the matters that may be considered to be essential and urgent, and parties have been individually informed as to whether their hearing will proceed and/or when it has been adjourned to.

Any hearing conducted during this Relevant Period is done through electronic means, unless otherwise directed by the court. There has therefore been extensive use of video conferencing. The Registrar has issued guidelines on the use of video and telephone conferencing to attend hearings.

- Does the crisis have an effect on deadlines (of procedural and substantive law)?

In relation to timelines under the procedural rules of court, where matters scheduled for hearing during the Relevant Period have been adjourned, parties can write in to the court to request an extension of time. The existing applicable timelines continue to apply for all other matters, but parties can also write in to court to request an extension of time where necessary.

The deadlines for bringing actions are currently unaffected. There have not been any legislations that have put in place changes in that regard.

- Does the crisis have an effect on enforcement?

Any application for enforcement orders are generally not issued during this Relevant Period, as it is not considered as a starting point to be urgent and essential, unless the Courts determine otherwise. An application for stay of execution of a civil judgment is, however, categorised as urgent and essential which the court will hear during this Relevant Period.

It should also be noted that the Act provides temporarily relief from enforcement orders arising from the inability to perform specific types of contract. Where a party to a contract specified under the Schedule of the Act is unable to perform an obligation that is performed on or after 1 February 2020 as a result of COVID-19, the other party to the contract may be barred from enforcing against the company or its guarantor any court judgments or arbitral awards. The types of contracts include certain categories of secured facility agreements, performance bonds, hire-purchase agreements, event contracts, tourism-related contracts, construction contracts, supply contracts, and a lease or license of non-residential immovable properties.

- How do courts work during the crisis?

The various courts' registry and services continue to operate during the Relevant Period to provide services for essential and urgent matters only. A small number of staff continue to work in the courts to address these matters, while implementing social distancing in the office. Most of them are working from home. There is also a dedicated email address for parties to make urgent query to the registry.

During the Relevant Period, parties are also not allowed to visit the court premises to tender documents in hard copy; any requirement to tender hard copies under the existing court rules can be complied with by electronically filing the soft copies or submitting copies by AR Registered Post. Except where it relates to essential and urgent matters during this Relevant Period, any request for service by the court process server, for inspection of a case file in person, for taking of hard copies of documents or for any enforcement action will also not be processed.

- How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?

The Registrar's Circulars have provided a detailed list of essential and urgent matters which will continue to be heard during the Relevant Period. The applications for and to set aside urgent injunctions and search orders are included in the list. Other such matters include applications for stay of execution of civil judgment. These applications will still be heard through video conferencing, unless the court directs otherwise. For other matters that do not fall within the list, a party may make a request to the court for the matter to be heard within the Relevant Period, explaining why the matter is essential and urgent.

- How do lawyers work during the crisis?

Lawyers are required to work from home and are not allowed to return to office unless it is necessary for them to provide the legal services that fall within the list of essential services under the Regulations. Law firms generally only maintain a core group of staff in the office to assist with the administrative matters. Social distancing measures are also implemented in accordance with the Regulations.

- How do banks work during the crisis?

The banking and finance services have been classified as essential services during the Relevant Period. The Monetary Authority of Singapore and banks have however encouraged individuals and businesses to use digital financial services and e-payments, instead of visiting the premises of financial institutions so as to support the enhanced safe distancing measures. Most bank branches are also closed during this Relevant Period.

- Does the crisis have an effect on insolvency law?

Under the Act, the monetary debt thresholds for bankruptcy and insolvency has been increased from \$15,000 to \$60,000, and \$10,000 to \$100,000 respectively. The time period to respond to statutory demands from creditors (the non compliance of which gives rise to a presumption of insolvency) has also been increased from 21 days to 6 months. The Act also provides relief for directors from insolvent trading, so long as the debts are incurred in the ordinary course of business.

2 Forecast: after the crisis and long-term effects

What are the consequences of the Covid 19 pandemic once the pandemic has abated, in the gradual return to a new normality and what are the long-term effects?

- Which measures introduced during the crisis will be withdrawn immediately and which measures will remain in place?

The Act is only intended to be in effect for one year. However, this period can be extended.

From a practical perspective, notwithstanding the cessation of the pandemic, it is expected that various measures undertaken by the Courts, for example, remote hearings by video conferencing, as well as those undertaken by legal services providers, for example, flexible working arrangements, will become much more common than before. It is also anticipated that more conferences and seminars will be conducted online.

- Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?

No, the pandemic is not expected to affect the financial resources available to the Singapore authorities.

- Do you expect a rise of new anti-corruption prosecutions after the crisis?

Insofar as corruption cases relating to the allocation of governmental measures to fight the pandemic are concerned, this is not expected to contribute to the number of cases post-crisis, given the controls imposed by the government on such allocation. Insofar as corruption cases generally, it is also not expected that the pandemic will contribute to new corruption cases.

- Will the ratio of third party funded matters rise?

Third party funded cases remain limited at present in Singapore to those arising from insolvencies. That being said, the economic fallout of the COVID-19 crisis will likely lead to an increase in insolvencies and the unravelling of fraud cases, which is likely in turn to drive up demand for third party funding.



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