

NOTES OF MEETING
PEMUDAH Private Sector Meeting No. 18/2020
2 October 2020

1. OPENING REMARKS

- Chairman YBhg. Dato' Dr. Ir. Andy Seo Kian Haw commenced the **Eighteenth PEMUDAH Private Sector Meeting of 2020** via Teams.Microsoft online link at 9.30 a.m. on 2 October 2020.
- He welcomed the Members, the two paper presenters and members of the Technical Working Group on Starting a Business (TWGSAB).
- Dato' Abdul Latif Hj Abu Seman, PEMUDAH Member/Director General, Malaysia Productivity Corporation (MPC) also extended a warm welcome to the Members, the paper presenters and YBhg. Dato' Dr. Jacob Thomas, Champion, Private Healthcare Productivity Nexus (PHPN).
- Dato' Abdul Latif mentioned about the *MyMudah* initiative launched in July 2020 to receive and address private-sector business issues and concerns with recommendations thereon. The expanding of this initiative to northern peninsular Malaysia covering four States was launched by the MITI Minister. MPC has been mandated by the Government to ensure the transparency and quality of guidelines and procedures for licensing applications as part of the anti-corruption drive. Monitoring and receiving of feedback are being done.
- Dato' Abdul Latif said the Members looked forward to the sharing of the best practices for Starting a Business in New Zealand as Malaysia's ranking in this indicator in the World Bank Group's Ease of Doing Business needed much improvement.
- Chairman informed that the Technical Working Group Dealing with Construction Permits (TWGDWCP) had held a meeting with the private sector on 1 October 2020. Although Malaysia is ranked second on this indicator, the objective is for the positive effect to be felt across all the local councils throughout Malaysia.
- He added that policy issues should be presented to the PEMUDAH meetings chaired by YBhg. Tan Sri KSN.

2. PAPER 1: NEW ZEALAND's EXPERIENCES AND BEST PRACTICES ON THE TOPIC OF STARTING A BUSINESS BY THE MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT (MBIE) OF NEW ZEALAND

A. Mr. Mark Steel, Director, Regulatory Systems, Strategic Policy and Programmes Group, MBIE presented as follows:

- (1) The New Zealand Context: A small open economy distant from trading partners, 97% of businesses are SMEs accounting for 26% of GDP and 29% of employment, no regulatory affairs departments, an electronic business environment, a sound legislative framework and a supportive and demanding

government. New Zealand favourably tops the rankings on the Transparency International Index that measures corruption.

- (2) Businesses, public-sector organisations and non-governmental organisations in New Zealand are relatively small by international standards without resources and specialisations to cope well with regulatory burdens. The authorities have to be conscious of the regulatory burdens placed on organisations.
- (3) Law reforms since 1993 had simplified and modernised the statutory framework, emphasized on fit-for-purpose legislation and repealed a large body of legislation. Examples: NZ Business Number Act 2016 and Companies Amendment Acts 1993 and 2014. The simplification of the Company Law removed the common seal, memorandum and articles of association, the company secretary, the concept of par value and authorised and issued capital, the declaration of compliance and the distinction between a public company and a private company.
- (4) Digital Technology/Agencies/Businesses: Digital technology makes information and regulation more accessible, improves government process transparency, joins up agencies and helps businesses navigate the regulatory and administrative maze. The speed at which technology can be introduced by the government is also determined by the readiness within the business community.
- (5) Customer-centred, faster and cheaper service delivery: Online registration and information sourcing, built an SME portal (Bus.Govt.NZ), ISO certification, developed an operating model, focussed on staff culture, staff training and skill sets, stakeholder engagements/buy-in and developed a sustainable funding model. The outcome was higher trust and integrity, a high-quality regulatory experience for businesses and a top number one ranking in the World Bank Group's Ease of Doing Business Report and the Starting a Business indicator. Regulatory compliance is also being given attention other than focussing on improving the ease of doing business.
- (6) The Government helps the business regulatory experience by establishing a cluster of programmes for integrated value. The Better for Business team within MBIE coordinates activities across different agencies to ensure commonality. The Business.govt.nz team helps to provide online information and tools as easily and effectively as possible on how businesses can work with the government and be compliant. The Business Connect team examines processes to try to simplify them such as licensing processes. The New Zealand Business Number initiative is being rolled-out for every business to use this number to provide their minimal information to the government once only and it will not be necessary to provide the same information to various agencies. Agencies can access the New Zealand Business Number to obtain required information. Businesses can also update their information.

- (7) The Business.govt.nz website shows the tools available to businesses especially small businesses such as linking up to agencies (tax, employment, trade, etc.) and in dealing with regulatory processes.
- (8) Business Connect aims to simplify licensing processes. Licensing requires businesses to deal with different agencies which causes frustrations.
- (9) The importance of making progress on several fronts at once to help the doing of business rather than focussing on any one specific area was repeatedly emphasized by Mr. Mark Steel.

B. The meeting noted that:

- (1) YBhg. Tan Sri Abdul Rahman Mamat, PEMUDAH Member, agreed with the need to simplify processes and integrate agency services. He enquired whether there were any licence renewals and any subscription fees or other charges to be paid by the private sector to the Government in New Zealand. Mr. Mark Steel replied in the affirmative and explained that the New Zealand Government wanted to keep the costs of doing business down by eliminating unnecessary requirements that levied charges for their compliances such as by amending the company law. Each time departments propose the charging of a new fee or a fee increase, they have firstly to justify to their Ministry and the public for the fee/increase and present their methodology and labour/technology/etc. costings for scrutiny.
- (2) Tan Sri Rahman referred to 99.9% of business registrations being done online and enquired whether there was any platform that integrated with the various other agencies. Mr. Mark Steel said Business.govt.nz performed the integration role via a hyperlink and MBIE was still simplifying towards having a single platform. MBIE takes charge of this initiative. Tan Sri Rahman said effort was being made to reduce business registration time from 7 days in Malaysia whereas in New Zealand registration takes just half a day. Mr. Mark Steel said the key was to eliminate unnecessary procedures and to adopt digital technology.
- (3) Cik Khairon Niza, Companies Commission of Malaysia (CCM), requested Mr. Mark Steel to share about the eliminating of the role of a company secretary in New Zealand. Mr. Mark Steel informed that the elimination was made possible through a change in the laws. A consultative process was undergone and as the changes were extensive a transition period was allowed for businesses to adjust.
- (4) Encik Ganesh Kumar, PEMUDAH Member, wanted to know how the identity of a company would be authenticated when its user tried to access into the single-number system for services. Mr. Mark Steel said he would arrange for New Zealand Business Number to provide a description of the process to the Secretariat for the benefit of the Members. Encik Ganesh asked whether it was difficult to get the agencies to use the system and, if so, how the difficulty was surmounted. Mr. Mark Steel said the system firstly involved those Ministries and

agencies that had more interactions with businesses and, progressively, all Ministries and agencies are expected to use the number by 2021.

- (5) Tan Sri Rahman requested Mr. Mark Steel to share about how New Zealand managed to improve its ranking on the Starting a Business indicator to the Number 1 position and the number of years it took. Mr. Mark Steel said New Zealand took only a few years to improve from the 12th position to the top position by implementing early and extensive digitalisation.
- (6) Chairman enquired whether it was literally possible to register a business within half a day and how memorandum and articles of association (M & A) were eliminated in New Zealand. Mr. Mark Steel confirmed that half-day registrations were being done entirely online and M & A were completely done away with by providing a default constitution in the schedules to the Act. Redundancies wherever identified are eliminated.
- (7) Tan Sri Rahman wanted to know whether New Zealand had an organisation similar to PEMUDAH and a modernisation agency such as Malaysian Administrative Modernisation and Management Planning Unit (MAMPU). Mr. Mark Steel informed a PEMUDAH-like organisation did not exist in New Zealand as public and private sectors liaisons and consultations were held and the Public Service Commission (PSC) was in-charge of ensuring modernisation at the agencies.
- (8) Chairman enquired whether MBIE was in-charge of the registration of movable and non-movable assets and its related data. Mr. Mark Steel replied that the Personal Property Security Registry was within MBIE for movable assets along with the Business Registry while landed properties were registered with Land Information New Zealand, a separate agency. The PPSA is a government agency that provides open-access data to private businesses on a fee payment and the companies themselves can update their information in the system. The fee levied is only one New Zealand dollar per transaction.
- (9) The IRBM representative enquired what business registration transactions that the tax department in New Zealand was involved in. Mr. Mark Steel informed that the tax department issued a unique tax number to a new business registrant which was different from the business registration number. Efforts are underway to integrate these 2 numbers into just one number. The tax department does not require the registrant to go through any other initial procedure. The World Bank Group rates the issuing of the unique tax number and not any other initial procedure. Mr. Mark Steel would arrange to provide to the Secretariat a detailed description of the process of issuing a tax number.
- (10) Cik Khairon Niza (CCM) noted that New Zealand did not have national personal identity numbering for its citizens and enquired how this would affect business registrations and searches based on names. Mr. Mark Steel said a system was used to verify individual identification. He would have the New Zealand Business Number team provide explanatory materials to the Secretariat.

- (11) Both Chairman and Dato' Abdul Latif thanked Mr. Mark Steel for his presentation and sharing of Starting a Business best practices and experiences in New Zealand. Dato' Abdul Latif looked forward to the forthcoming ASEAN-OECD Meeting and hoped that the collaboration would continue in the years ahead.

(C) The meeting agreed that:

- (1) Mr. Mark Steel will arrange for the following to be provided to the Secretariat for the benefit of the Members:
- (i) The New Zealand Business Number team to provide a description of the process of authenticating the identity of a company when its user tries to access into the single-number system for services;
 - (ii) A detailed description of the process of the tax department issuing a unique tax number; and
 - (iii) The New Zealand Business Number team to provide explanatory materials on the system used to verify identifications of individuals.

Action: Mr. Mark Steel

3. PAPER 2: UPDATE ON BUSINESS CONCERN OF REGULATING MANAGEMENT CARE ORGANISATIONS (MCOs)/THIRD-PARTY ADMINISTRATORS (TPAs) BY THE MINISTRY OF HEALTH MALAYSIA (MOH)

A. Dr. Ahmad Razid Bin Salleh, Director, Medical Practice Division, MOH presented as follows:

- (1) An MCO is interpreted as an organisation or body that makes or intends to make a contract/arrangement with a private healthcare facility or service to provide healthcare within a financing system.
- (2) The Private Healthcare Facilities and Services Act 1998 (Act 586) Part XV (Sections 82-86) was explained in relation to MCOs, the furnishing of information on contract/arrangement/organisation to the Director-General of Health (DGH) and register maintenance.
- (3) Section 82 (1) (a) sets out 2 variants of the inter-party relationships between:
- i. an insurance company, its healthcare provider subsidiary, policyholders, corporate clients, a private healthcare facility or service and employees, and
 - ii. an insurance company, a third-party healthcare provider, policyholders, corporate clients, a private healthcare facility or service and employees.
- (4) Section 82 (1) (b) sets out the contractual relationships between the various parties where a third-party healthcare provider is involved. The issue is about cost management where doctors' claims in the private healthcare facilities are

managed and screened through by MCOs/TPAs for unnecessary cost items before corporate clients reimburse doctors.

(5) Problem Statement of MCO Involvement:

- Default of payment: Healthcare providers complain to MOH against MCOs/TPAs for not paying within the contracted 30/60 days or non-payments. The Act does not provide for arbitration;
- Consultation fees capping: Contractual limit is set on consultation fees based on the fees schedule of the private healthcare regulations (RM10-RM35 for clinics and RM60-RM120 for specialists). Doctors complain to MOH when MCOs set fees at the lower end;
- Interferes with clinical management of Registered Medical Practitioners (RMPs): Even though the Act stipulates against such interference, it happens. MCOs screens through doctors' prescribed treatments for newly-admitted patients to justify it such as diagnostic scanning;
- De-listing of RMPs: If MCOs decide that RMPs behave unreasonably such as making excessive claims, they can delist them from their panel of providers; and
- Imposing additional fees: Doctors have to pay retaining fees (e.g. RM1,000/-) and subsequent-year fees in order to be placed into or retained in MCOs' panels. MCOs impose administrative fees on every transaction with RMPs (e.g. RM5/- or even 10% of the claimed amount).

(6) Opinions on Regulating MCOs:

- i. The MOH legal advisor opined that Section 107, PHFS (Act 586) does not empower the Minister to make regulations for MCOs and MCOs are not defined as private healthcare facilities or services as they are business entities; and
- ii. Bank Negara Malaysia (BNM)'s opinion is that the Financial Services Act (2013) does not empower BNM to regulate MCOs because:
 - (a) An MCO's activities do not constitute it as an insurance entity;
 - (b) MCOs act as an intermediary to manage medical and health-related claims more effectively for insurers; and
 - (c) MCOs mainly facilitate the implementation of cashless medical treatment facilities for policyholders.

(7) MCOs are only indirectly regulated through other mechanisms where healthcare providers have entered into contracts with MCOs/TPAs. If a contract contravenes Act 586 or interferes with management by doctors or contravening other laws or the code of professional conduct, both parties are liable for the contravention.

(8) MOH had engaged with KPDNHEP on the consumer issues involving MCOs but KPDNHEP said they did not regulate healthcare.

(9) The Way Forward:

- (i) Strengthen healthcare providers' awareness of MCOs in terms of the contracts (Certain doctors still contracted with MCOs even though the terms are not favourable to them because they need to have patients), and
- (ii) Explore approaches/mechanisms through other agencies or bodies to regulate MCOs/TPAs.

B. The meeting noted that:

- (1) YBhg. Dato' Dr. Jacob Thomas, Champion, PHPN emphasized that the concerns expressed affected private hospitals and general practitioners (GPs). He thanked PEMUDAH and MPC for assisting to address the issue which had reached "a brick wall". The issue is of great concern to private hospitals and GPs as medical treatment is delayed when MCOs questioned the necessity of medical procedures and other treatments prescribed by doctors for patients such as magnetic resonance imaging (MRI). Dato' Dr. Jacob also mentioned that PHPN was working with the World Bank Group on aged care.
- (2) Dr. Ahmad Razid informed that several administrative measure directives had been issued by DGH to MCOs/TPAs/doctors. MOH had studied contracts entered into between MCOs and clinics and a major part of these contracts covered business transactions between the parties.
- (3) Chairman and Dato' Abdul Latif thanked Dr. Ahmad Razid for his presentation. They wish to see PHPN engage in further discussions on the issue and the possible approaches and mechanisms to regulate MCOs/TPAs. Chairman indicated that the policy issue could be escalated to a PEMUDAH meeting if necessary but PHPN had to deliberate on it first.

C. The meeting agreed that:

- (1) PHPN should engage in further discussions on the issue and the possible approaches and mechanisms to regulate MCOs/TPAs.

Action: PHPN

4. OTHER MATTERS

The following matters were noted by the meeting:

(1) **Technical Working Groups**

Chairman noted that the technical working groups had been active since the first PEMUDAH Meeting held on 18 September 2020 such as Technical Working Group on Registering Property (TWGRP) co-chaired by Chairman and Technical Working Group on Dealing with Construction Permits (TWGDWCP) co-chaired by YBhg. Tan Sri Teo Chiang Kok.

TWGRP had met with the Bar Council and issues faced at *Pejabat Tanah dan Galian Selangor* (PTGS) due to the Movement Control Order (MCO) and their possible solutions were discussed. TWGRP Members visited the PTGS office in September 2020 where they were briefed on the whole process of registering property including the working of the Smartbox (formerly Dropbox) and obtained a clearer understanding of PTGS's operational problems. Lawyers held that the National Land Code (NLC) did not provide for a Smartbox and were worried documents would go missing. Members observed that some processed documents ready for collection by lawyers were not collected. TWGDWCP private sector members had a meeting in the office of MPC that updated on issues pertaining to transacting with local authorities. Chairman appreciated that Mr. David Jones, Co-Chair of Technical Working Group on Enforcing Contracts (TWGEC) had visited the Bar Council subsequent to the roundtable session with the Bar Council and expected TWGEC to work with the Bar Council to present Enforcing Contracts issues to the meeting.

Chairman recapitulated that YBhg. Tan Sri KSN had emphasized that TWGs should meet regularly to surface and address both operational and policy issues related to their Doing Business indicators.

Encik Foo Chek Lee, PEMUDAH Member/Co-Chair, Technical Working Group Contracting with the Government (TWGCG) informed TWGCG had held its second meeting on *Buy Malaysia* on 1 October 2020. The definition of Made-in Malaysia products had to be changed such as in the manufacturing industry where at least 51% of the materials used must be sourced locally but it had to be taken into account the use of imported raw materials in products. The definitions of professional consultancy services and machinery rental services as well as contractual provisions by *Jabatan Kerja Raya* (JKR) also need to be looked at. The ownership for enforcing *Buy Malaysia* has to be determined and maybe the Construction Industry Development Board (CIDB) could play this role. JKR stipulates that at least 30% of materials used in a project have to be locally sourced but locally-manufactured cement already constituted the 30% leaving no room for other local materials. This issue will also be addressed. TWGCG will update to PEMUDAH after finalising the status. Chairman added that TWGCG could seek assistance from the Secretariat to liaise with government agencies and from YBhg. Tan Sri Soh Thian Lai, PEMUDAH Member/President of the Federation of Malaysian Manufacturers (FMM).

(2) **Policy and Operational Issues**

Chairman requested TWG co-chairs and members to identify and highlight any policy issues to be presented to the second PEMUDAH meeting scheduled to be held on 22 October 2020.

The first PEMUDAH meeting agreed that operational issues should be settled at KSU or DG levels. Members should have their associations and chambers

present their issues to TWGs and PEMUDAH rather than airing them to the press and also help explain about the *MyMudah* platform to the associations. In addition, issues are also being highlighted through the Unified Public Consultation (UPC), the nine Productivity Nexuses and roundtable sessions with associations and chambers such as the Bar Council and American Malaysian Chamber of Commerce (AMCHAM).

(3) **A Brief Presentation on *MyMudah***

Dato' Abdul Latif described the UPC/*MyMudah* as a private-sector driven platform for the public to access into to submit issues. MPC manages the UPC and had received a total of 230 issues via the UPC and will collate and analyse the merit of each case and present them to KSU, MITI before engaging the relevant Ministries and Agencies to resolve them. Issues and recommendations to resolve them are firstly deliberated by PEMUDAH before, where necessary, being escalated to the Economic Action Council (EAC) chaired by YAB Prime Minister. To-date, the EAC had approved recommendations on 3 cases such as concerning export permits and delays in issuing CCC in the construction industry.

Dato' Abdul Latif emphasized that *MyMudah* was a suitable platform to engage with industries to address issues as well as to simplify procedures, improve the quality of regulations and achieve the objectives of regulations. This initiative is being expanded to the States and local authorities and the MITI Minister had launched *MyMudah* in the four northern states in peninsular Malaysia in September 2020.

Dato' Abdul Latif briefed that PEMUDAH/MPC works closely with the executive director of the EAC, YBhg. Tan Sri Prof Nor Azlan who reports to YBhg. Datuk Mustapa Mohamed, the Minister of Economic Affairs. Weekly meetings are held with Tan Sri Prof Nor Azlan/Datuk Mustapa to prepare cases to be escalated to the EAC. The EAC meets almost every week. Chairman added that TWG members may be invited to present to the EAC such as *Persatuan Akitek Malaysia* (PAM) having been invited to present in relation to Dealing with Construction Permits.

Dato' Abdul Latif informed that online briefings on *MyMudah* could be arranged for interested parties on request made to Puan Wan Fadzlin Nadia, the Director from MPC who is in-charge of the *MyMudah* initiative.

Lastly, Dato' Abdul Latif urged TWGs, Productivity Nexuses and other stakeholders such as associations and chambers to work together with the *MyMudah* platform to help resolve issues as the way forward.

(4) **Refunding of GST Claims**

Dato' Chua Tia Guan, PEMUDAH Member/Technical Working Group on Paying Taxes (TWGPT) Co-Chair, informed that some PEMUDAH members were concerned over the progress of the refunding of GST claims which was expected to be completed by the end of December 2020. Certain taxpayers who have completed the process and are still awaiting to receive their refunds just have to be patient over the next 3 months. If the refund exercise is not completed by 31 December 2020, then the matter will be brought up for attention.

Dato' Chua requested the Members to help disseminate about the refund exercise to their association members in particular about the incorrect bank accounts of taxpayers which, according to the Royal Malaysian Customs Department (RMCD), totalled about 20,000 and the 50,000 taxpayers not contactable by RMCD. Taxpayers should also be advised to check on their accounts via the RMCD website's taxpayers' access point.

5. ADJOURNMENT OF MEETING

Chairman adjourned the meeting at 11.25 a.m. with a word of thanks to the members and the presenters for their presence and contributions to the meeting.

The date and time of the next meeting will be determined and notified to the Members.

SECRETARIAT

PEMUDAH - THE SPECIAL TASK FORCE TO FACILITATE BUSINESS

4 OCTOBER 2020