

NOTES OF MEETING
PEMUDAH Private Sector Meeting No. 5/2020
6 May 2020

1. OPENING REMARKS

- Chairman YBhg. Dato' Dr. Ir. Andy Seo Kian Haw commenced the **Fifth PEMUDAH Private Sector Meeting of 2020** via Cisco Webex video conferencing at 11.00 a.m. and welcomed the members. Chairman also thanked YBhg. Dato' Abdul Latif and MPC for organising the meeting.
- The first two webinars organised by PEMUDAH attracted a total of 15,400 viewers. The third webinar scheduled on 11 May 2020 will discuss the topic of mobilisation of One Stop Centre (OSC) system's digitalisation under the new normal.
- YBhg. Dato' Seri Wong Siew Hai informed that the Electrical & Electronics Productivity Nexus (EEP) would host 3 webinars in May 2020 relating to challenges brought on by COVID-19 to the industry.
- Dato' Abdul Latif updated the meeting on MPC's latest significant work. A meeting on the establishment of PEMUDAH Sabah has been conducted with the Chief Executive Officer of Sabah Economic Development and Investment Authority (SEDA) on 5 May 2020. The meeting agreed on the establishment of PEMUDAH Sabah where SEDA and MPC will act as joint secretariat. PEMUDAH Sabah will focus initially on the tourism and agro-food sectors. A meeting to brief YBhg. Datuk Setiausaha Kerajaan Negeri (SKN) Sabah will be held in the third week of May 2020. YBhg. Datuk Seri Chief Minister of Sabah will officiate the soft launching of PEMUDAH Sabah in June 2020.
- The Minister (Economy), YBhg. Dato' Sri Mustapa Mohamed had requested MPC to present radical recommendations to address specific issues in a post-COVID 19 recovery plan and as inputs for incorporation into RMK 12. The Minister emphasizes on regulatory reforms which require regulations to be reviewed, amended or abolished. The public and private sectors are invited to submit their radical recommendations to MPC. Shortlisted recommendations will be presented to the Minister at a meeting on 8 May 2020. Dato' Abdul Latif requested PEMUDAH Private Sector members to put forward their recommendations to be received by the Secretariat by 7 May 2020. He expressed appreciation to MITI and the private sector for their support of PEMUDAH's and MPC's work and objectives.

- Encik Jaya Singam (MITI) informed that the Cabinet had discussed about PEMUDAH in its past 3 meetings including how to amplify and improve PEMUDAH's important role.

2. PAPER 1: BRIEFING ON GST REFUND

A. **YBhg. Dato' Chua Tia Guan, PEMUDAH Member/ Co-Chair, Technical Working Group on Paying Taxes, presented as follows:**

- (1) RMCD is considering the issue of GST refund claims on the basis of 'refund first audit later', a risk assessment approach for claims of RM100,000 and above, a 90%/10% mechanism and a 2-year bank guarantee for the 10%.
- (2) RMCD is proposing **a new strategy** to require all outstanding claims of RM100,000 and above to undergo risk assessment with the following possible outcomes:
 - Claims which pass the assessment are entitled to a 100% refund;
 - Claims which fail the assessment are entitled to a 100% refund subject to a 2-year bank guarantee for 10%; and
 - Claims which fail the assessment are entitled to a 90% refund and RMCD will withhold 10% in lieu of a bank guarantee.

(3) **Clarifications required from RMCD:**

- What will be the percentage of assessment passes?
- How long will it take for a refund to be made after assessment?
- What will be the procedures to determine between a 100% refund and a 90% refund?

B. **The meeting noted that:**

- (1) Dato' Chua informed that claims of RM1,000 and below were refunded, and claims above RM1,000 to RM100,000 were being verified through IRB records of their company/ business status before refunding. According to RMCD, the 7,000-odd claims above RM100,000 would be risk assessed.
- (2) YBhg. Tan Sri Teo suggested RMCD should automatically refund 90% for all claims. The risk assessment to be conducted to the balance of 10% of the refund.

- (3) YBhg. Tan Sri Soh suggested that Sale and Services Tax (SST) registrants should be refunded 100% of their GST refund claims as they were still paying taxes. The SST should be an alternative to risk assessment.
- (4) Chairman requested the Secretariat to invite a representative from the Ministry of Finance (MOF) to attend future meetings as the representative could provide inputs to the GST refund discussion as well as be apprised of the refund situation.

C. The meeting agreed that:

- (1) The Secretariat is to draft a proposal for submission to Datuk Seri KSN and Dato' KSU (MITI) that RMCD should refund 90% for all claims including claims which failed risk assessment while claims which passed risk assessment should also be refunded the balance of 10% and that SST registrants should be refunded 100% of their GST refund claims as they are still paying taxes.

Action: Secretariat

- (2) A representative from MOF should be invited to attend future meetings as the representative can provide inputs to the GST refund discussion as well as be apprised of the refund situation.

Action: Secretariat

3. PAPER 2: LEGISLATIVE REDRESS: ADDRESSING PROFESSIONAL SERVICE PROVIDERS' PREDICAMENTS

A. YBrs. Encik Lukman Sheriff Alias, Messrs Zul Rafique & Partners, Advocates & Solicitors/ Focus Group Leader of Legal Fraternity, Professional Services Productivity Nexus (PSPN) presented as follows:

- (1) PSPN had submitted a regulatory impact assessment (RIA) to PEMUDAH. A ministerial announcement informed that COVID bill is expected to be passed by Parliament in July 2020. The next immediate parliamentary session will be held on 18 May 2020.

(2) Immediate Issue to Redress #1: Suspension of Enforcement of Contracts

Problem Statement:

- Address contract breaches due to inability to perform in the Movement Control Order (MCO) period; and
- Address issues specific to construction and supply contracts.

(3) **Proposal:**

- Suspend the enforcement of a specified number of contracts temporarily and encourage parties to resolve amicably; and
- Should not seek to vary the rights of parties and resolve issues under the contracts.

(4) **Proposed Contractual Rights to be Suspended:**

- Court or arbitration proceedings;
- Court, insolvency and bankruptcy proceedings and enforcement of judgments and domestic arbitrations;
- Exercise of a right of re-entry or forfeiture under a lease or a licence of immovable property or any other right with similar outcome;
- Enforcement of security over movable and immovable properties used in a trade, business or profession;
- Execution, distress or other legal process;
- Appointment of a receiver or manager;
- Repossession of goods used in a trade, business or profession under leasing, hire purchase or retention of title; and
- Lease or licence termination of immovable property for non-payment of rent or other monies.

(5) The types of contracts wherein rights are proposed to be suspended (modelled on the Singaporean COVID-19 Laws) were listed out such as leases and licences of non-residential immovable properties and construction and supply contracts.

(6) Further redress can include setting out the tenure of the relief period, extend the limitation period under the law or contract, and encourage mediation for a resolution.

(7) **Immediate Issue to Redress #2: Employment**

Problem Statement:

- Strict employment laws – employers must pay full wages, unilateral deductions are not permitted and employee's consent is to be obtained for any variation.

(8) **Proposal:**

Legislative amendments to allow the following without employee consent:

- Utilisation of 100% annual leave;
- Salary deduction of up to 30% allowed for up to 6 months;
- A mandatory condition for no retrenchment within a specified period and reinstatement will be made after the period;
- Only a qualified company is entitled to relief to prevent abuse.

- Non-regulatory approach – SOCSO to pay all sick leave/ home or hospital quarantine for COVID-19 positive cases and the government wage subsidy is to be increased from earning up to RM4,000 to maximum RM10,000.

B. The meeting noted that:

- (1) Tan Sri Soh mentioned about the possibility of an increasing number of individuals going into bankruptcy such as business persons who had entered into tenancy contracts at shopping malls and were no longer able to service rentals. Encik Lukman said shopping mall tenancy contracts would come under non-residential properties and the bankruptcy threshold amount and the period of default could be looked into.
- (2) Tan Sri Teo cautioned against the one-sidedness of tenants abusing the proposed new legislation not to pay rent to their landlords who cannot take action against them. Some companies will become insolvent if they cannot retrench their workforce.
- (3) Mr. David Jones enquired how overseas customers could perceive new enactments for suspended relief. Encik Lukman cited the precedent of suspended relief in Singapore which was acceptable to foreign companies.
- (4) Encik Jaya Singam commented that it would not be possible to table the proposed COVID-19 bill in Parliament in May 2020. It is necessary to identify the Acts to be amended and set out the justifications and rationale for legislative amendments.
- (5) Chairman suggested that the various Ministries could be approached for feedback on existing legislations that governed them and specific recommendations for regulatory reforms. Dato' Latif informed that the MPC GRP team would approach the Ministries through the Regulatory Coordinators (RCs).
- (6) Chairman suggested that the Employment Insurance System (EIS) be studied to see whether it could provide monetary assistance to employees during the current difficult times.

4. PAPER 3: ONE STOP CENTER (OSC) STANDARD OPERATING PROCEDURES (SOP) TO REINSTATE THE OPERATIONS OF CONSTRUCTION SECTOR WITHIN AND POST MCO

A. YBrs. Encik Zamirzam bin Puji, Jabatan Kerajaan Tempatan (JKT), Kementerian Perumahan Dan Kerajaan Tempatan (KPKT) presented as follows:

- (1) Local authorities, technical departments and agencies and submitting persons (SP)/ principal submitting persons (PSP) interact in accordance with OSC 3.0 Plus which sets out the process guidelines for submission, consideration and approval of development plans and issuance of construction permits within and post MCO.
- (2) KPKT prepared and implemented SOP for OSC 3.0 Plus purposely for the MCO and post-MCO periods.
- (3) OSC 3.0 Plus Main Processes:
 - Technical information collection (not compulsory);
 - Development plan consideration;
 - Works commencement notification;
 - Construction site monitoring and interim inspection notification;
 - Final inspection stages I and II notification; and
 - Deposition of CCC (Form F/F1) & Forms G1-G21.
- (4) Construction sector SOP covers 8 categories of application and development:
 - Development plans not submitted before MCO;
 - Applications accepted but not tabled in an OSC Committee meeting;
 - OSC Committee has given full approval to an application;
 - OSC Committee has approved an application with amendments;
 - Development has been given all development plan approvals but has not issued notification of COW;
 - Development has submitted COW notification and carried out construction works;
 - Development with physical progress of 90% to 100% and is ready for CCC issuance; and
 - Development, final inspection and CCC documents are fully completed. CCC not deposited at PBT yet.

B. The meeting noted that:

- (1) YBhg. Datuk Ar. Ezumi informed that, since January 2020, Seberang Perai PBT had not recorded any online submissions. Other PBTs had experienced a

significant drop in submissions in April and May 2020. He asked whether KPCT monitored online processing at PBTs. Encik Zamirzam said Seberang Perai PBT was the last PBT to install OSC Online but their processing was still not fully done online yet. JKT was not aware why there was a lack of online submissions at Seberang Perai PBT. Nine other PBTs were already fully online.

- (2) Encik Zamirzam added that OSC 3.0 Plus Online was developed without providing for online OSC meetings. Departmental KPIs had been set, status of progress in the processing was monitored and system-generated alerts would highlight non-compliances.
- (3) Encik Jaya Singam said only a declaration was required for Item No. 5 and 7 and 13 other items were needed to be clarified with CIDB.
- (4) Tan Sri Teo enquired when PBT offices would re-open as the Conditional Movement Control Order (CMCO) already allowed work to resume in many sectors subject to SOPs. Encik Zamirzam said JKT was monitoring the situation at PBTs but had no powers to impose requirements at the State and PBT levels. Also, several States had imposed additional conditions on the CMCO.
- (5) Datuk Ar. Ezumi shared feedback received from architects that the building plan submission manual and other manuals were not found in OSC 3.0 Online and that payments of fees had to be done at the counter and then receipts had to be scanned for online submission but online payments would be better. Encik Zamirzam said he would check with the system administrator regarding the online manuals. There is connection difficulty between the web-based building plan submission and processing and itemised payments made for various fees.
- (6) Tan Sri Teo informed that the 14-day KPI in the OSC procedures to revert to a submitted application was not being adhered to. Building plan submissions had been rejected for incompleteness when the applicant was required to also provide departmental approvals such as landscaping department approval. Encik Zamirzam clarified it was not a requirement for all necessary approvals to be obtained first before a building plan submission was accepted.
- (7) Chairman commented that the OSC 3.0 Plus Online did not have a track-and-trace feature and Procedure No. 1 could be eliminated. The forthcoming PEMUDAH webinar on the construction industry can allow for further in-depth discussions on the industry issues such as online submission and processing.

5. OTHER MATTERS

No other matters were raised to be discussed by the meeting.

6. ADJOURNMENT OF MEETING

Chairman informed that the next meeting would focus on food industries and the agro-based sector and adjourned the meeting at 1.25 p.m. with a word of thanks to the members for their presence and contributions to the meeting.

The next meeting is scheduled to be held on Tuesday 12 May 2020 at 11.00 a.m.

SECRETARIAT

THE SPECIAL TASK FORCE TO FACILITATE BUSINESS (PEMUDAH)

9 MAY 2020

ATTENDANCE LIST

Chairman

YBhg. Dato' Dr. Ir. Andy Seo Kian Haw
PEMUDAH Co-Chair/ Vice President, Federation of Malaysian Manufacturers (FMM)

PEMUDAH Private Sector Members

1. YBhg. Dato' Pardip Kumar Kukreja	Executive Chairman Paradise Group of Company
2. YBhg. Dato' Seri Wong Siew Hai	Chairman MAEI
3. YBhg. Tan Sri Teo Chiang Kok	The Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM)
4. Mr. David Anthony Jones	Managing Director APAC Chartered Management Institute
5. Mr. Ganesh Kumar Bangah	Immediate Past Chairman, The National Tech Association of Malaysia (PIKOM)
6. Mr. Foo Chek Lee	President, Master Builders Association Malaysia (MBAM)
7. YBhg. Tan Sri Soh Thian Lai	President, Federation of Malaysian Manufacturers (FMM)
8. YBhg. Dato' Abdul Latif Hj Abu Seman	Director General, MPC

ABSENT WITH APOLOGIES

9. YBhg. Tan Sri Azman Shah Dato' Seri Harun	President, Malaysian Employers Federation (MEF)
10. YBhg. Tan Sri Abdul Rahman Mamat	Chairman Asia Logistics Council
11. YBhg. Datuk Wira Jalilah Baba	Group Chairman, PKT Logistic Groups Sdn. Bhd

OTHER INVITED GUESTS

12. Mr. Jaya Singam Rajoo	Ministry of International Trade and Industry (MITI)
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13.	Dr. Asmawi Noor Saarani	MITI
14.	Ms. Samini Ferdous Sandrakantham	MITI
15.	YBhg. Datuk Ar. Ezumi Harzani Ismail	Arkitek MAA Sdn Bhd
16.	Mr. Zamirzan Bin Puji	Jabatan Kerajaan Tempatan (JKT)
17.	Mr. Lukman Sheriff Alias	Focus Group Leader of Legal Fraternity PSPN
18.	Ts. Choo Kok Beng	Champion PSPN
19.	Mr. Keu Tien Siong	PSPN
20.	Mr. Ahmad Nazri	PSPN
21.	Pn. Nor Halisa Mohamad Halil	Program Manager PSPN
22.	Pn. Azhani Ismail	Project Manager PSPN
23.	Mr. Leong Kin Choong	MPC Associate

SECRETARIAT

24.	Mr. Zahid Ismail	MPC
25.	Ms. Wan Fazlin Nadia Wan Osman	MPC
26.	Mr. Muhd Adha Abd Hamid	MPC
27.	Ms. Nurul Farahaton Najihan Jusoh	MPC
28.	Ms. Rabiatul Hana Ishak	MPC