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PERSEKUTUAN MAJIKAN-MAJIKAN MALAYSIA

MALYSIAN EMPLOYERS FEDERATION (Reg. No: 1357-SELANGOR)

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Circular No: AG 8/2020

17 March 2020

To: ALL MEMBERS

Movement Control Order (Perintah Kawalan Pergerakan) due to Outbreak of Novel Coronavirus (COVID 19) – 18th March 2020 to 31st March 2020

In view of the serious situation due to the pandemic outbreak of Novel Coronavirus (COVID 19), the Government is concerned that the outbreak would cause more people to be infected and decided on prioritized action to prevent the spread of COVID 19. The Government has decided to execute the Movement Control Order nationwide with effect from **18th March 2020 until 31st March 2020**. The Movement Control Order is made under the Prevention and Control of Infectious Disease Act 1988 and the Police Act 1967. The Government's actions under the Movement Control Order are as follows:

- (a) The overall restriction of movement and gatherings of people throughout the country including religious, sports, social and cultural activities. To enforce this restriction, all houses of worship and business premises must be closed, except for:
- (i) Supermarkets;
 - (ii) Public markets;
 - (iii) retail outlets; and
 - (iv) convenience stores that sell daily necessities.

- (b) The overall restriction of all Malaysian citizens travelling abroad. Those who have just returned from abroad are required to undergo health screening and exercise self-quarantine for 14 days;
- (c) Restriction of all foreign tourists and visitors to the Country;
- (d) Closure of all nurseries, Government and private schools including full boarding schools, International Schools, Tahfiz Centres and other primary, secondary and pre-university educational institutions;
- (e) Closure of all public and private institutions of higher education and institutes of skills training throughout the country; and
- (f) Closure of all Government and private premises except those involved with national essential services (kecuali yang terlibat dengan perkhidmatan penting negara), namely:
 - (i) Water,
 - (ii) Electricity,
 - (iii) Energy,
 - (iv) Telecommunication,
 - (v) Post,
 - (vi) Transport,
 - (vii) Irrigation,
 - (viii) Oil,
 - (ix) Gas,
 - (x) Fuel,
 - (xi) Lubricants,
 - (xii) Broadcasting,
 - (xiii) Finance,
 - (xiv) Banking,
 - (xv) Health,
 - (xvi) Pharmacy,
 - (xvii) Fire department,
 - (xviii) Prison,
 - (xix) Port,

- (xx) Airport,
- (xxi) Safety,
- (xxii) Defence,
- (xxiii) Cleaning,
- (xxiv) Retail; and
- (xxv) Food supply.

2. As the Movement Control Order under paragraph 1(a), (d), (e) and (f) above involves the closure of places of employment with effect from 18th March 2020 until 31st March 2020 except supermarkets, public markets, retail outlets, convenience stores that sell daily necessities and those involved with national essential services as stipulated in paragraph 1(f), members may take the following actions :

- (a) Arrangements of working from home with pay if deemed necessary;
- (b) Granting employees paid company leave;
- (c) Allowing employees to take annual leave; and
- (d) Granting employees unpaid leave in the event of no annual leave balance;

3. During this challenging period employers need to implement policies that will be seen to be fair by taking care of the employer's interest and also the employees interest arising from the closure of all private premises except those involved with national essential services. MEF recommends that for the 14 days period;

- (a) Employees may take up to 5 days annual leave or unpaid leave or combination of both; in the event the employee refuses to take annual leave or unpaid leave whichever is applicable, the employer may decide not to pay the employee for up to 5 days, and,
- (b) Employers may grant paid leave for the remaining 9 days.

4. MEF is of the view that it is reasonable to interpret that employees who are also employed in companies that are not listed in paragraph (f) but providing support services to the national essential services companies, would be required to continue providing their services on full pay based on the needs of the companies.

5. Members are also advised to be guided by MEF Circular 03/2020 (attached herewith) on employment matters related to COVID 19, for example,

a) Quarantine Order - In Hospital or at Home Due to COVID19

Employees required by the Government to be quarantined either in hospital or at home on matters related to COVID19, will be considered to be on sick leave and as such the quarantine period should be treated as hospitalization leave. Such hospitalization leave is to be treated as part of the employees' eligibility under their respective terms of employment, Collective Agreement or the Employment Act 1955.

b) Travel advisory

Employers are advised not to require their employees to travel on non- essential work matters to the countries affected by COVID19. Employees should also be advised not to travel to the countries affected by COVID19 outbreak for any personal reasons for the duration of the outbreak of COVID19.

6. In the event a company commits an offence under the Prevention and Control of Infectious Disease Act 1988, if convicted, is punishable under the said Act with a fine or compound not exceeding RM1000 per offence and / or imprisonment not exceeding 2 years for first offence and 5 years for subsequent offence. A daily fine of RM200 will be imposed for each day of the continuing offence.

Note: Please be informed that Regulation 5(1) of the Employment (Termination and Lay-Off Benefits) Regulations 1980 states as follows:

Where an employee is employed under a contract on such terms and conditions that his remuneration thereunder depends on he being provided by the employer with work of the kind he is employed to do, he shall, for the purposes of regulation 3(b), be deemed to be laid-off if –

- (a) the employer does not provide such work for him at least a total of twelve normal working days within any period of four consecutive weeks; and*
- (b) the employee is not entitled to any remuneration under the contract for the period or periods (within such period of four consecutive weeks) in which he is not provided with work...*

7. As the announcement of the Movement Control Order due to COVID19 is neither anticipated nor controlled by the management or the employee, it may therefore tantamount to **Force Majeure** that excuses either party from performing their contractual obligations which becomes impracticable.
8. Please be reminded that the above guidelines are reasonable interpretation to address the current situation and are not legally binding on MEF members.

MEF is awaiting for further clarifications from the authorities and members will be updated from time to time.

9. Members may call National Operation Management Centre Hotline 03-8882010 from 12.00 noon today (17th March 2020) for further information relating to the Movement Control Order. Members may also contact MEF as follows:

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Thank you.



Datuk Hj Shamsuddin Bardan
Executive Director