

PRESS RELEASE

**Re-Align Framework to Renegotiate Contracts
For Businesses Significantly Impacted by COVID-19**

1. The Ministry of Law (“**MinLaw**”) intends to introduce a Re-Align Framework to help businesses that have been significantly impacted by COVID-19 renegotiate selected types of contracts with their counterparties to realign with current economic conditions and business objectives. This framework is provided for in the COVID-19 (Temporary Measures) (Amendment No. 3) Bill (the “**Bill**”) tabled in Parliament on 2 November 2020.
2. The COVID-19 pandemic has had a significant impact on businesses. Although economic and social activities have now partially resumed in a careful and calibrated manner, safe distancing requirements and travel restrictions continue to have a great impact on some businesses, seriously affecting their viability.
3. Businesses that have been severely impacted by COVID-19 will need to review their business models in the face of the significantly changed economic conditions. As the assumptions upon which they entered their future contracts before COVID-19 have fundamentally changed, they may also need to review their contractual obligations. However, especially for smaller and micro enterprises, they may find it difficult to navigate these options on their own and may be deterred from renegotiating or exiting their contracts by the sizable penalties or damages they may incur. Without any relief, many of these businesses will be driven into litigation or insolvency.
4. Sanctity of contract remains an important feature of Singapore’s attractiveness as an international commercial centre and a fundamental pillar of legal policy. The Government therefore does not intervene in contracts lightly. When it is necessary to do so, under exceptional circumstances, and for the greater public good, this will be done in a targeted, conservative manner.
5. Against this context, the Bill seeks to provide a targeted legislative framework to enable these businesses to renegotiate specified types of contracts with their counterparties. The framework provides parties with a basis to renegotiate and come to a mutual agreement. If the negotiations are unsuccessful, the contract may be terminated, and the consequences of such termination will be prescribed in the Bill. For terminated contracts, businesses will remain liable for any outstanding debts and obligations, but will not be liable to pay penalties for early termination.

6. This allows businesses to re-align quickly in a just and fair manner and move forward in this vastly changed business environment. Overall, this will be beneficial for businesses if they are able to pivot or downscale their operations more quickly, and more productive for the economy.

(A) Eligibility criteria

7. The Bill is targeted at smaller and micro enterprises whose business outlook has been severely impacted by COVID-19 even after economic and social activities have resumed.
8. There will be two key criteria to identify eligible businesses.
 - (a) First, they will be subject to an annual revenue cap to be eligible. This criterion will cover the majority of enterprises in Singapore.
 - (b) Second, businesses must have experienced a significant fall in revenue across a comparable time frame pre-COVID19. This will identify businesses who have been severely impacted even after the resumption of economic and social activities.
9. We are in consultation with industry on these key criteria. We aim to find a threshold that helps smaller and micro enterprises and at the same time reaches out to a broad enough spectrum. Details, when finalised, will be set out later in the subsidiary legislation.

(B) Contracts covered

10. The framework is designed to cover key business-to-business contracts, and will only apply to a contract that:
 - (a) Is governed by Singapore law;
 - (b) Was entered into before 25 March 2020;
 - (c) Has at least one party who has a place of business in Singapore; and
 - (d) Falls within the following five categories (“**Scheduled Contracts**”), which are likely to have substantial obligations that may need renegotiation or restructuring:
 - i) Leases or licences for non-residential immovable property;
 - ii) Hire-purchase and conditional sales agreements for commercial equipment or commercial vehicles (except agreements entered

into with banks and finance companies regulated by the Monetary Authority of Singapore (MAS))¹;

- iii) Rental agreements for commercial equipment or commercial vehicles;
- iv) Contracts for sale and purchase of goods; and
- v) Contracts for sale and purchase of services.

11. Certain contracts will be excluded from the Re-Align Framework, even if they fall within the list of Scheduled Contracts (“**Excluded Contracts**”). These include consumer contracts, employment contracts, insurance contracts, financial services contracts, construction and supply contracts, and contracts affecting essential services and national interests. The list of Excluded Contracts is in **Annex A**.

(C) Process for renegotiation and termination of Scheduled Contracts

12. Under the Re-Align Framework, a contractual party who wishes to renegotiate or terminate a contract must serve a notice on the other party or parties to the contract.

(a) Parties will be required to enter into renegotiations with the counterparty. If parties are unable to successfully renegotiate, contracts may be terminated. To encourage these arrangements to take place quickly, these measures will only be available for a limited period from the time of commencement. Limiting the time period to seek relief provides greater certainty to counterparties.

(b) Where there are disagreements on a party’s eligibility or the liabilities payable upon termination, parties may serve a notice to have an independent Assessor make a determination on these issues.

(D) Additional arrangements

Additional Compensation for Small Landlords

13. Similar to the Rental Relief Framework, the Re-Align Framework will seek to mitigate hardship that smaller landlords in financial hardship might face arising from the termination of the contract. The tenant will have to pay to an eligible small landlord additional compensation for early termination of the lease or licence agreement, that is to be determined by an Assessor. The details will be set out later in subsidiary legislation.

¹ MAS has worked with the financial industry to extend support measures beyond 2020, which will help SMEs facing cashflow difficulties to transition gradually to full loan repayments.

Choice to Pay Arrears by Instalment for Hirers and Renters of Commercial Equipment

14. As an alternative to contract termination, the Bill will provide an option for eligible hirers and renters of commercial equipment and vehicles to take up a Repayment Scheme to pay outstanding arrears in instalments. This is in recognition of feedback from some hirers and renters that while they have been substantially affected by COVID-19, they do not wish to terminate their agreements, as that would mean they have to return the equipment or vehicles and lose their source of income. Instead, they have requested for more time to repay their accumulated arrears. Details of the Repayment Scheme are in **Annex B**.

(E) Implementation date

15. If the Bill is passed, MinLaw aims to introduce subsidiary legislation and implement the Re-Align Framework, including the compensation for landlords in financial hardship and the Repayment Scheme. More details will be announced in due course.

Other support measures

16. In view of the impact that COVID-19 has had on businesses, MinLaw is also introducing a Simplified Insolvency Programme under the Insolvency, Restructuring and Dissolution (Amendment) Bill to assist micro and small companies (“**MSCs**”)² that require support to restructure their debts to rehabilitate the business, or to wind up the company as the business has ceased to be viable. Application details will be announced in due course.

**MINISTRY OF LAW
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² Micro and small companies are companies with an annual revenue of less than \$1 million and \$10 million respectively.

Annex A: List of Excluded Contracts

- Consumer contracts
- Employment contracts
- Insurance contracts
- Leases or licences for non-residential immovable property which have a term of more than five years
- Contracts made in connection with a financial transaction, or for the supply of financial services (except hire-purchase)
- Construction and supply contracts
- Contracts for the carriage of goods for freight by sea, land or air, including any contract for freight forwarding and logistic services
- Contracts for the supply, storage, transportation, collection, treatment or disposal of certain hazardous materials
- Commodity contracts
- Contracts for factoring of receivables
- Contracts (or series of contracts) for the transfer for a business or part thereof as a going concern
- Contracts where the application of the Re-Align Framework is inconsistent with Singapore's international obligations (e.g. aircraft financing contracts falling under the Cape Town Convention)
- Contracts affecting essential services and national interest³

³ Parties in contracts affecting essential services and national interests may use the Re-Align Framework to renegotiate their contracts but cannot terminate them.

Annex B: Repayment Scheme for arrears under hire-purchase agreements and rental agreements for commercial equipment and vehicles

Eligibility for Repayment Scheme	Businesses and individuals that meet the eligibility criteria for the Re-Align Framework, and who are party to a hire-purchase or rental agreement for commercial equipment or vehicles. If a party chooses to take up the Repayment Scheme, they cannot make use of the renegotiation or termination reliefs under the Re-Align Framework, and vice versa.
Period of arrears covered	1 February 2020 to the date before the service of the Notice of Revision.
Period of repayment	Up to a maximum of 18 months. This period of repayment may extend beyond the existing period provided in the contract for repayment.
Instalment amount	Equal monthly instalments over the period of repayment
Applicable interest rate	Capped at 5% per annum, or the contractual interest rate, whichever is lower.
First instalment payment to be made by	The first instalment must be paid within one month after the period of six weeks after the Bill comes into force.
How to apply	The eligible hirer or renter must serve a Notice of Revision on all parties to the contract and all interested parties (e.g., guarantor, surety or issuer of any performance bond or equivalent in relation to the hirer / renter's obligations under the contract) within six weeks after the Bill comes into force.