



FREQUENTLY ASKED QUESTIONS (FAQ)
ON MOVEMENT CONTROL ORDER
MINISTRY OF HUMAN RESOURCES
(Volume 3)

1. Are employers required to pay salaries during the 14 days extension of Movement Control Order (MCO) starting 1 April 2020 until 14 April 2020?

Yes, employers are required to pay employees' salaries and relevant fixed allowances, unless such allowances attendance / travel based (which did not occur during that period).

2. Can employers instruct employees to take annual leave or to deduct the annual leave for the period of 1 April to 14 April 2020, or for any days during the period?

Employers cannot force their employees to take annual leave, as annual leave shall only be granted upon employees' discretion and application.

3. What actions can employers take during the Movement Control Order (MCO)?

Employers are advised to take the following actions during the MCO period:

- i. Employers must pay full salaries and allowances during the extended MCO;
- ii. Subject to agreements of both parties, employers may offer employees the following:
 - a) fully pay leave;
 - b) half pay leave; or
 - c) unpaid leave;
- iii. If retrenchment needs to take place, employers may refer to our Guidelines on Retrenchment which is available together with the retrenchment report (Borang PK) on Department of Labour's website (jtksm.mohr.gov.my).

4. What can employees do if the employers did not take the above actions?

Employees can lodge complaint to the nearest Labour Office.

5. Can retrenchment be done by employers affected by COVID-19?

Retrenchment refers to reduction of workforce due to redundancy. Retrenchment is generally employer's prerogative. However, to ensure the retrenchment process is done fairly, employers are required to adhere to these 3 conditions:

- i. Employers' justifications need to be genuine;
- ii. Employers are required to take measures such as reducing work hours, limiting or postponing new recruitments, limiting overtime, limiting work during weekends or public holidays, reducing salaries or temporary lay-offs in order to avoid retrenchment;
- iii. Foreign workers need to be retrenched first if retrenchment is inevitable. The LIFO (last in first out) principle are be adhered to if retrenchment involves local workers. However, in cases where employers have strong justifications, this principle may be disregarded. Any retrenchment must be reported to the nearest Labour Office at least 30 days prior to retrenchment date. Guidelines on Retrenchment and the retrenchment report (Borang PK) are available on Department of Labour's website (jtksm.mohr.gov.my).

6. What should employers do if an employee is suspected or tested positive for COVID-19?

Employers are to instruct all employees working closely with the suspected or tested positive employee to stay at home (self-quarantine) for 14 days to curb the spreading of infection. The employee is also required to identify all individuals working in close proximity (three to six feet) within 14 days prior to being suspected, to enable employers to list all possibly infected individuals. Employers must keep the employee's information confidential. Employers must also disinfect the workplace and affected work space. If the workplace is in a building or shared work space, employers should notify the building management so that appropriate precautions can be taken.

7. Can foreign workers holding Temporary Employment Visits (PLKS), Expatriate Pass and MM2 return to their home country?

Yes, subjected to conditions set by the Immigration Department of Malaysia (JIM). Please contact the Bilik Gerakan Ministry of Home Affairs (MOHA) at 03-8886 8110 / 03-8886 8126 for more information.

8. Can employers give unpaid leave to all employees if one of the employees is tested COVID-19 positive?

Employers may provide leave to other employees for their safety and health, provided that such leave are paid and unrecorded. Employers cannot force workers to take unpaid leave.

9. What can a daily paid employee do, if their wages are not paid during the duration of the Movement Control Order (MCO)?

Please refer to the FAQ on Employment Retention Program (ERP) by the Social Security Organisation (SOCSO), or call 1300-22-8000 or visit the website www.perkeso.gov.my for more information.

10. What action should be taken if employers under the non-essential category is operating without written consent from the Director General of Ministry of Health?

Any person can report it to the nearest Royal Malaysian Police / RELA / Department of Labour / Department of Occupational Safety and Health.

11. What action can employees take if their employers do not comply with the Movement Control Order (MCO)?

Employees can report to the Police, RELA or the Ministry of Human Resources (MOHR).

Reports and inquiries can be submitted via the following hotline numbers:

- i. 03 8889 2359;
- ii. 03 8890 3404;
- iii. 03 8886 2409;
- iv. 03 8886 2352; or

v. 03 8888 9111

or email:

- i. jtksm@mohr.gov.my;
- ii. jtknsabah@mohr.gov.my;
- iii. jtknsarawak@mohr.gov.my

DURATION CALCULATION

- 12. Will the MCO duration which commenced on 18 March 2020 [Prevention and Control of Infectious Diseases (Measure within the Infected Local Areas) Regulations 2020] be accounted in calculating of the 60-day period stipulated under section 20 of the Industrial Relations Act 1967?**

The MCO duration which commenced on 18 March 2020 will NOT be accounted in calculating the 60-days stipulated time period under section 20 of the Industrial Relations Act 1967. This is to ensure employees comply with the MCO and to provide workers the opportunity to file their representations of termination of service after the order expires.

- 13. Will the MCO duration which commenced on 18 March 2020 [Prevention and Control of Infectious Diseases (Measure within the Infected Local Areas) Regulations 2020] be accounted in the calculating the time period under section 9 of the Industrial Relations Act 1967?**

The MCO duration which commenced on 18 March 2020 will NOT be accounted in the stipulated time period under section 9 of the Industrial Relations Act 1967. This is to ensure that the parties involved (trade unions and employers) adhere to the MCO and to provide relevant parties the opportunity to take any action after the order expires.

MINISTRY OF HUMAN RESOURCES

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