



**Circular No 142/2020
Dated 6 May 2020**

To Members of the Malaysian Bar

MCO | Addressing Issues Faced by Members

Even as the country has entered into phase 4 of the Movement Control Order (“MCO”) from 29 Apr to 12 May 2020, the Bar Council continues to work to support and assist Members to negotiate these unprecedented and trying times. This circular is intended to keep all members and pupils informed by outlining some of the main things that the Bar Council has done to assist Members.

(1) Waiver of Rulings

What has the Bar Council done to make it easier for law firms to continue to operate during the duration of the MCO?

The Bar Council understands that the MCO prevents Members from carrying out their practice in the normal manner.

Bar Council Rulings 7.01(6) and 7.05 specify that Members are to ensure that their firms are open during weekdays and that their fax numbers should be functional. Since Members will have difficulty complying with these requirements during the MCO, the Bar Council waived Rulings 7.01(6) and 7.05, as mentioned in [Circular No 063/2020](#).

(2) Additional Exceptions for Members to Draw Money from Client Accounts

What has the Bar Council done to expand the use of online banking service for payments from client accounts?

In the course of carrying out legal work, Members are regularly required to make payments on behalf of clients from monies deposited in a law firm’s client accounts.

In order to afford Members greater flexibility, the Bar Council has allowed additional exceptions under Rule 8(4)(c) of the Solicitors’ Account Rules 1990 to enable electronic payment by way of online banking service for an expanded list of purposes. A comprehensive list of the additional exceptions can be found in [Circular No 090/2020](#).

(3) Reducing the Annual Subscription and Reduction / Waiver of Levies

The MCO has impacted negatively on the finances of Members. What has the Bar Council done to alleviate the cash flow problem that many Members and firms are experiencing?

To assist Members, the Bar Council has reduced the annual subscription to the Malaysian Bar and has either waived completely or reduced some of the levies for 2020.

The total payment that Members made to the Malaysian Bar in 2019 was RM1,080. However for 2020, this has been reduced to RM730 — a reduction of more than 30%. The total payment of RM730 can be made in two tranches — RM350 before the deadline of 30 June 2020, and the balance of RM380 before Members apply for their Sijil Annual and Practising Certificate (“SAPC”) 2021.

By making this decision, the Bar Council is forgoing approximately RM7 million in subscription and levies to the various Funds. The Bar Council is looking at measures to reduce costs and to generate income in order to strengthen the financial standing of the Bar.

For more information, please refer to [Circular No 111/2020](#).

(4) Regular Updates to Members

What has the Bar Council done to keep Members updated, since the MCO was put in place?

Since the Government announced the MCO on 16 Mar 2020, the Bar Council has issued no less than 30 circulars to ensure that Members are updated and informed of all the latest developments.

Some of the key circulars include:

- (i) [Circular No 067/2020](#): “Update on COVID-19 | Movement Control Order (III) | Closure of Courts, AIAC, MyIPO and Other Government Agencies”, which is regularly updated.
- (ii) [Circular No 069/2020](#): “Notifications of Closure from State Offices of Director of Land and Mines and District Land Offices, and FAQ issued by Lembaga Hasil Dalam Negeri Malaysia”.
- (iii) [Circular No 083/2020](#): “Assisting Members of the Bar During the Period of Economic Uncertainty”. The Bar Council had written to the Prime Minister’s Department to put forward various proposals to assist lawyers and law firms, seeking the Government’s assistance to help reduce the operational costs of law firms during these trying times.
- (iv) [Circular No 089/2020](#): “List of Specific Relief Facility Products Offered by Financial Institutions”. The Bar Council collated information relating to credit facilities available under the Specific Relief Facility (“SRF”) provided by Bank Negara Malaysia, which are offered by financial institutions.

- (v) [Circular No 093/2020](#): “Clarification on the Expanded Wage Subsidy Programme under the PRIHATIN Stimulus Package”.
- (vi) [Circular No 095/2020](#): “FAQ by Bar Council | Guidance for Lawyers for the Practice of Law and Delivery of Legal Services During the MCO Period”. This circular encompasses queries by Members on office management, communication and preparation of documents, along with queries relating to specific practice areas, such as conveyancing and litigation.
- (vii) [Circular No 119/2020](#): “Issue of Extended Deadline for Payment of Stamp Duty”. The Bar Council had obtained clarification in respect of a discrepancy of the issue of the extended deadline for payment of stamp duty between the FAQs issued by the Inland Revenue Board of Malaysia (Lembaga Hasil Dalam Negeri Malaysia, “LHDN”) (as of 10 Apr 2020) and their letter to us dated 11 Apr 2020.
- (viii) [Circular No 124/2020](#): “Update | Notification of Case Hearings Conducted Online during the MCO Period”, stipulating the cases that are permitted to be heard online, and the list of officers at the High Court of Malaya and Mediation Centre.

Further to these circulars, on 24 Mar 2020, a special section was created in the Malaysian Bar website, which places all the relevant and useful information pertaining to the COVID-19 pandemic and MCO. Members can access the special section, [here](#). The documents placed here include press releases and frequently-asked-questions (“FAQs”) issued by various Government agencies and institutions. The information here is updated regularly to keep Members informed of latest developments.

The Facebook page of the Malaysian Bar also regularly shares useful information, videos, infographics, and links.

The Bar Council has also been responding frequently to all emails sent to council@malaysianbar.org.my.

(5) Guidance for Lawyers for the Practice of Law and Delivery of Legal Services During the MCO Period

How else has the Bar Council sought to guide lawyers during the MCO?

On 10 Apr 2020, the Bar Council issued an FAQ entitled “Guidance for Lawyers for the Practice of Law and Delivery of Legal Services During the MCO Period” through [Circular No 095/2020](#). This was updated on 28 Apr 2020. The Bar Council has, through the contribution and assistance of its various committees and departments, produced this document which the Bar Council hopes would be useful for Members during this time. This FAQ, which deals with office management, communications, preparation of documents, conveyancing practice, litigation practice, specialised practice, Continuing Professional Development (“CPD”), pupils in chambers and other matters, is updated from time to time.

(6) Survey: COVID-19: Moving Forward and Practical Tips

What has the Bar Council done to reach out to Members to understand the challenges that they are facing?

The Bar Council conducted an online survey entitled “COVID-19: Moving Forward” among law firm owners between 10 and 20 Apr 2020, with the objective of gathering data and understanding their concerns. The invitation to complete the survey was sent to Members via [Circular No 094/2020](#) and [Circular No 107/2020](#). The survey questions, which covered law firm demographics, finances, practice areas, and feedback on specific areas, are aimed at steering the Bar Council to move forward in the right direction. We will be conducting two more surveys, this time for Members who are employed, and pupils in chambers.

In addition, in assisting Members to adapt to the new normal, the Bar Council has issued several guidelines and infographics to Members, such as [Circular No 082/2020](#), [Circular No 100/2020](#) and [Circular No 125/2020](#), to offer handy tips on working from home, staying healthy, and the cyber security risks of working remotely.

(7) Continuing Professional Development (“CPD”) for Members

How has the Bar Council ensured that CPD sessions are not hampered by the MCO?

The Bar Council has ensured its ongoing commitment to providing continuing legal education to Members through CPD web seminars (“webinars”). Since 6 Apr 2020, Bar Council has organised more than 12 webinars during the MCO period, with more upcoming in the future. These webinars are provided free of charge for Members and pupils in chambers. So far, the webinars have been attended by 200 to 480 participants each session, which translates to approximately more than 3,000 Members who participated in totality.

In addition to the webinars, the online training platform, CPD on Demand, can be accessed by Members and pupils at www.lawprez-bcm.com. CPD on Demand provides Members and pupils in chambers with free access to more than 90 videos that cover 28 different topics. Users will be awarded with one CPD point and an e-certificate as proof of completion upon watching these videos.

(8) List of Specific Relief Facility Products

(a) What has the Bar Council done to assist Members to obtain Special Relief Facility products offered by financial institutions?

As referenced in Item no 4 of this circular, the Bar Council has compiled a list of Specific Relief Facility products offered by financial institutions for the convenience of Members, through [Circular No 089/2020](#). The Bar Council collated information relating to credit facilities available under the Specific Relief Facility provided by Bank Negara Malaysia,

which are offered by financial institutions. However, it must be noted that the Bar Council is **not** encouraging the use of credit facilities, nor is it endorsing the said credit facilities.

(b) One of the conditions to apply for the BSN Micro-i Kredit Prihatin (“myBSN”) is that microenterprises have to be registered with the Companies Commission of Malaysia (Suruhanjaya Syarikat Malaysia, “SSM”) or Local Authorities (“LAs”). As law firms are not registered with SSM or LAs, what has the Bar Council done to assist?

The Bar Council has checked on this matter with the officers from Bank Simpanan Nasional (“BSN”) and can confirm that law firms **are entitled** to apply for myBSN. As law firms are not registered with SSM or LAs, law firms need to provide proof of membership of the Malaysian Bar when they make the application.

(9) Wage Subsidy Programme (“WSP”)

The expanded WSP was announced by the Prime Minister on 6 Apr 2020 as part of the additional measures under the PRIHATIN stimulus package. The wage subsidy assistance ranges from RM600 to RM1,200. What has the Bar Council done to assist Members to apply for WSP?

When the expanded WSP was announced, the Bar Council provided the Social Security Organisation (Pertubuhan Keselamatan Sosial, “PERKESO”) with a list of all the law firms registered with the Bar Council, as well as a list of all law firms established prior to 1 Jan 2020. The Bar Council also asked PERKESO to make use of this list when dealing with applications from law firms, rather than insisting that each law firm produce a letter of confirmation. Unfortunately, PERKESO did not agree to this proposal and Members were required to upload a letter confirming their law firm’s registration with the Bar Council.

The Bar Council Secretariat has issued such confirmation letters to Members upon request. Hundreds of letters have been furnished to Members by Bar Council Secretariat staff working remotely. All that the Member needs to do is to send a request by email to our Membership Department at membership@malaysianbar.org.my. This information is provided in [Circular No 098/2020](#).

The Bar Council also received several queries from Members with regard to the difficulties they faced during the application process, in particular the requirement of a Business Registration Number (“BRN”), PSU50 declaration forms, and other supporting documents. In response to this, the Bar Council sought clarification from PERKESO customer service officers on how to prepare the application for WSP. Pursuant to the clarification received, the Bar Council issued a series of updates and FAQs through [Circular No 093/2020](#), [Circular No 098/2020](#) and [Circular No 108/2020](#) to guide Members in their applications for WSP.

(10) Special PRIHATIN Grant

In the Prime Minister’s speech dated 6 Apr 2020, he mentioned that micro-small and medium-sized enterprises (“micro-SMEs”) that are registered with LHDN are qualified to receive a Special PRIHATIN Grant of RM3,000. The LAs and SSM will then provide a list of eligible microenterprises to the Government. The Prime Minister’s speech had inadvertently omitted SMEs that are registered with statutory bodies of professional service providers, such as law firms. As law firms are not registered with LAs or SSM, what is the Bar Council’s response to this?

The Bar Council is currently engaging with the relevant authorities to obtain more information on this Special PRIHATIN Grant. The Bar Council will provide an update to Members in due course upon receiving clarification.

(11) Strict Timelines Imposed by Financial Institutions

What has the Bar Council done to assist law firms that have been pressured by strict timelines imposed by banks and financial institutions?

The Bar Council has issued various press statements since the beginning of the MCO in March 2020, calling on Government authorities and agencies to be cognisant of issues faced by lawyers, and to exercise fairness in dealing with any application or request to extend time.

In addition, in its press statement available [here](#), the Bar Council urged banks and other financial institutions, including the Association of Banks in Malaysia (“ABM”) and the Association of Islamic Banking and Financial Institutions Malaysia (“AIBIM”), not to impose unrealistic and unreasonable demands, and called for Bank Negara Malaysia, as well as all other financial institutions, to suspend or temporarily relax its standard operating procedures that require strict compliance while the MCO is in force.

The Bar Council also wrote to the General Insurance Association of Malaysia (Persatuan Insurans Am Malaysia, “PIAM”) to request that insurance companies relax or suspend deadlines placed on law firms, in particular small and medium-sized firms, in order to allow them to cope during these challenging times.

Noting that small and medium-sized law firms are most susceptible to financial difficulties during the MCO, the Bar Council in its press statement issued on 30 March 2020, urged the Government to consider the plight of SMEs, which include law firms. The Bar Council suggested a special relief facility for law firms and initiatives such as government subsidies of law firm staff salaries. The Bar Council also proffered the view that there should be an extension on the submission and payment of income tax beyond 30 Apr 2020, or do away with tax instalment payments (“CP500”) for the year 2020. The press statement is available [here](#).

(12) Proposals to the Government

What are some of the proposals that have been made to the Government to assist Members?

The Bar Council has made a number of proposals to Government bodies. Some of these proposals are as follows:

- Provided it is deemed safe by the Ministry of Health (“MOH”), to allow all law firms to open without restriction to the type of practice and all entities that intersect with the services of the legal sector, to enable lawyers to earn and sustain themselves.
- Provided it is deemed safe by MOH, to allow the full-scale opening of Government sectors, eg land offices, LHDN, Commissioners for Oaths, SSM, and the like, to complement the legal service.
- Provided it is deemed safe by MOH, to allow the gradual opening of Government bodies or Government-Linked Companies (panel clients of legal firms), that will enable work production and cash flow.
- Provide grants to law firms to cover their operating expenditures and overheads for six months.
- Provide interest-free loans for law firms.
- Enhance the Government’s wage subsidy programme, by subsidising 50% to 80% of law firm staff salaries.
- Liberalise and enhance the legal profession via legislative amendments to the Legal Profession Act 1976. The draft Legal Profession Bill, which was scheduled for tabling in Parliament in March 2020, contains provisions that enable the formation of law firms as limited liability partnerships, as well as provisions regarding legal technology.
- Enable legislative amendments to the Courts of Judicature Act 1964 and subsidiary legislation, to enable online civil hearings.
- Enact a COVID-19 legislation to ensure continuity of commerce and commercial entities.
- Non-imposition of panelship requirement by financial institutions, Lembaga Pembiayaan Perumahan Sektor Awam (“LPPSA”) (Public Sector Home Financing Board), and the like.
- Expand and enhance the access and bandwidth of high-speed Internet nationwide, and lower the cost.
- Provide incentives for organisations and businesses to encourage adoption or upgrading of telecommunications and information technology equipment / facilities.
- Enable a blanket tax exemption for 2020 on personal income tax and all sales taxes, customs duties, and service taxes for all individuals.

- Provide for double tax deductions for professional practices, businesses and companies of all their rental expenses, payable for 2020 and 2021.
- Enable an automatic and blanket reduction in employers' contributions to the Employees Provident Fund ("EPF") (Kumpulan Wang Simpanan Pekerja, "KWSP"), from 12% to 6%, from May to December 2020.
- Waive electricity and water bills at 100% for the remainder of 2020.
- Provide for a complete waiver of interest payable on all business, personal, housing and car loans / borrowings for the duration of the six-month moratorium, or from May till December 2020.
- Call for Bank Negara Malaysia to reduce interest rates further to a significantly lower level.
- Expedite payment for the work done for the Government accordingly.
- Carry out a full-scale revamp of the Assigned Counsel Fees at the High Court, Court of Appeal and the Federal Court immediately, with a view to ensure its increase as well as allowing more Members to partake in such legal work.

(13) Concerns about the Dispensation of Justice during the MCO

Members of the Bar are concerned about the handling of litigation matters during the MCO. What has the Bar Council done to assist Members?

Having gathered feedback from Members, the Bar Council had written to the Office of the Chief Justice, to implore her Ladyship to postpone trials and hearings until the end of the MCO, and that any form of filings and notices of appeal be handled through the e-filing and e-review systems until the MCO is lifted. Due to the MCO, Members are unable to access the physical files at their offices, and the utilisation of e-filing and e-review would be a way to adapt to the challenges posed during the MCO.

Even more recently, the Chief Justice issued a press release on 17 Apr 2020 where her Ladyship stated that the Malaysian Judiciary had drafted a Practice Direction on the conduct of court proceedings via online hearings, to ensure that there is no backlog and inefficiency in dispensing justice. The first live streaming of an online hearing at the Court of Appeal was conducted on 23 Apr 2020. Due to the recent developments, the Bar Council issued [Circular No 124/2020](#) informing Members that hearings are now available to be conducted online during the MCO.

(14) Yayasan Bantuan Guaman Kebangsaan (“YBGK”) Payments

Payments to YBGK lawyers have been delayed due to the MCO. What is the Bar Council doing to expedite payments to YBGK Lawyers?

The President of the Malaysian Bar (“President”) wrote to the Manager of YBGK on 25 Mar 2020, seeking clarification on whether any arrangements have been made with regard to processing of claims submitted before the MCO period, and requested that payments be made as soon as possible. A follow-up letter was sent to the Attorney General (“AG”), YBhg Tan Sri Idrus Harun on 2 Apr 2020, where the President requested that the AG look into this matter.

On 9 Apr 2020, the President spoke to the Manager of YBGK again, and a follow-up letter was sent to her on 13 Apr 2020, requesting that arrangements be made for the payments to be released as soon as possible.

YBGK lawyers received their payments on 20 and 21 Apr 2020. These were payments for claims submitted in January 2020. The Bar Council will continue to follow up with YBGK so that lawyers who have done YBGK work will be paid promptly.

In addition to dealing with current payments, the President has also written to the Solicitor General II, Datuk Siti Zainab Omar on 20 Apr 2020, to draw her attention to the fact that there are many pending payments which were submitted since December 2015, and urged the Attorney General’s Chambers (“AGC”) to follow up with the Prime Minister’s Office (“PMO”) regarding the need to fund YBGK.

(15) Lobbying the Government so that Law Firms can Recommence Operations

What has the Bar Council done to assist law firms to recommence operations?

With each extension of the MCO, law firms face continued and mounting pressure to resume a less restrictive form of operations. In cognisance of this and the paramount need to ensure the safety of Members, the Bar Council had engaged with various ministries and Government bodies to reach a satisfactory solution. To this end, the Bar Council has been in persistent communication with the Legal Affairs Division of the Prime Minister’s Department (Bahagian Hal Ehwal Undang-Undang Jabatan Perdana Menteri, “BHEUU”) and the Ministry of International Trade and Industry (“MITI”), to provide feedback, suggestions and requests.

In this regard, the Bar Council has requested that the law firms that are allowed to operate be expanded and not limited to only firms that are doing conveyancing and corporate work, which are linked to essential services. The Bar Council has also requested that allowing law firms leeway to operate would only be meaningful if other government agencies on which they rely on, are also allowed to resume operations, with the necessary health and safety requirements put in place.

The Bar Council has also written to the Ministry of Finance, the Director General of the Royal Malaysian Customs and the Director General of LHDN about the adversities that Members face and will have to face, as a result of the MCO and the COVID-19 pandemic. Various proposals were made to mitigate financial hardship and to assist with sustaining law practices.

(16) Pupillage During the MCO

What has the Bar Council done to assist pupils in chambers affected by the MCO?

The Bar Council issued [Circular No 068/2020](#) stating that there is no reason why the duration of time when the MCO is in force, should not be taken into account in computing the duration of pupillage. Pupils are to continue with their work from home during the MCO. The Bar Council reminds pupils that they are to continue their learning process even while working from home, and to provide assistance to their masters whenever possible.

Pupils are also exempted from any legal aid duty when the MCO is in force. To comply with Ruling 10.06 of the Rules and Rulings of the Bar Council, affected pupils in chambers are required to reschedule their legal aid duty rosters (please see [Circular No 095/2020](#)).

(17) How else is the Bar Council assisting Members?

(i) In an effort to tackle the effects of the COVID-19 pandemic on Members, an Ad Hoc Pandemic Response Committee (“PRC”) has been formed. The PRC is tasked with dealing with urgent matters, as well as medium and long-term measures to assist Members. The PRC is currently working on areas like a COVID-19 legislation, and matters pertaining to technology, financial and tax issues relating to Members, as well as amendments to the Legal Profession Act 1976.

(ii) Even during the MCO, Members continue to work from home and at some point, may require legal research to be done. Under the Conditional MCO that began on 4 May 2020, the Bar Council Library has reopened, and Members are free to utilise its services.

Members who require cases and legislation can send an email to library@malaysianbar.org.my.

We hope that the information provided here is of assistance to Members. We will update Members as and when there are new developments.

Thank you.

A G Kalidas
Secretary
Malaysian Bar