



COVID-19 MEASURES RELATED TO REAL ESTATE AND CONSTRUCTION ACROSS THE REGION

11 May 2020

REGIONAL REAL ESTATE – Governmental Responses to the COVID-19 Pandemic

Question	Legal Framework	Application Scope
BANGLADESH		
1. Has the government instituted any limitations or closure of public or private spaces?	circular nos. 05.00.000.173.08.014.07.78 dated 10 April 2020; circular no. sha:adhi:/corona/2020-34 dated 16 April 2020; and circular no. 05.00.000.173.08.014.07.80, 05.00.000.173.08.014.07-135 dated 4 May 2020; Circular no. 04.00.0000.514.06.002.20.92 dated 4 May 2020	<p>Yes, the government has issued three circulars for the closure of public and private spaces while declaring the entirety of Bangladesh at risk of a COVID-19 outbreak. Further, to prevent an outbreak, the government has provided certain directions to its citizens including:</p> <ul style="list-style-type: none"> • to stay at home, and to go outside only if there is an urgent need. • No one can go outside of their houses between 6pm to 6am. • Public movement is restricted between local areas. • Movement during special holidays will be strictly maintained as per the instruction of department of health services of government. <p>The government extended special public holidays (which are not the same as general holidays) till 16 April 2020. During this period only limited business activity is permitted pursuant to certain limited exemptions.</p>
2. Are there any specific exemptions for construction activities?	N/A	No, there is no specific exemption for construction activities and they are subject to suspension.
3. Are there any recent rule changes governing liability for labor contracts during construction project shutdowns (if applicable)?	N/A	While there have been some governmental discussions on suspension of the right to terminate employees by way of “retrenchment”, there are, as of the date of this publication, no new laws or regulations relating to labour contracts during construction project shut downs.
4. How are construction costs allocated in the event of a force majeure event? (i.e. construction costs absorbed by the contractor or the owner)	N/A	In Bangladesh, there is no direct statutory basis for the doctrine of force majeure under the laws of Bangladesh. It depends on the respective terms of the parties' agreements/contracts.
5. Do any measures address obligations relating to real property rent or excuse of performance (i.e. right to delay rent payments, right to waiver of rent)?	N/A	No, there is no direction from the government in this regard yet, as of the date of this publication.
6. Are there any specific circumstances arising from Covid-19 affecting the real estate sector?	N/A	Yes, based upon local news reports, it appears that certain mega infrastructure projects including Padma bridge project, Dhaka metro rail project, Karnaphulli tunnel project, among others, are contemplating delays in completing the projects within the projected timeframe. Small and medium scale infrastructure projects are also likely to be delayed as a result of the COVID-19 holidays.

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LAO PDR		
1. Has the government instituted any limitations or closure of public or private spaces?	Yes, pursuant to PM Order No. 06/PM (29 March 2020) and Notification No. 481/PMO.Cab (15 April 2020)	The government order required nationwide social distancing and closure of non-essential facilities and government offices until 3 May 2020. On 1 May 2020 the Prime Minister's Office issued a further order (No. 524/PMO) easing some restrictions, allowing businesses and projects to operate as normal, subject to ongoing compliance with social distancing and other measures.
2. Are there any specific exemptions for construction activities?	Yes, pursuant to Notification No. 481/PMO.Cab (15 April 2020)	Construction activities may continue provided that management of such facilities ensure and apply the required measures to prevent and control the pandemic required by the directives of the relevant sector and the COVID-19 Task Force.
3. Are there any recent rule changes governing liability for labor contracts during construction project shutdowns (if applicable)?	N/A	No specific instruction or guidance from the Government for the construction industry as part of COVID-19 response measures.
4. How are construction costs allocated in the event of a force majeure event? (i.e. construction costs absorbed by the contractor or the owner)	N/A	No specific instruction or guidance from the Government as part of COVID-19 response measures. A force majeure event may excuse performance if (i) the event falls within the definition of force majeure under the Contract and Tort Law and (ii) as provided for under the terms of the contract.
5. Do any measures address obligations relating to real property rent or excuse of performance (i.e. right to delay rent payments, right to waiver of rent)?	N/A	No, there is no direction from the government in this regard yet, as of the date of this publication.
6. Are there any specific circumstances arising from Covid-19 affecting the real estate sector?	N/A	While construction activities may continue, the requirements for social distancing will affect the scope and type of work that can be completed in accordance with governmental requirements. As in most jurisdictions, the sectors most affected are the retail, leasing and hospitality sectors, which are not exempted from provisional closure orders.

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MYANMAR		
1. Has the government instituted any limitations or closure of public or private spaces?	Yes, pursuant to Order No. 38/2020 dated 18 April 2020 and Order No. 37/2020 dated 16 April 2020 issued by the Ministry of Health and Sport (“MOHS”) and the Ministry of Labour, Immigration and Population’s (“MOLIP”) announcement dated 19 April 2020.	<p>MOHS Order No.38 requires residents living in certain townships to stay at home with restrictions on the number of people permitted to leave the home, restrictions on reasons for leaving, and requirements to wear masks when outdoors.</p> <p>All other townships not explicitly mentioned in MOHS Order No. 38 have been notified by the relevant Ward Administrator to comply with the conditions set out in MOHS Order 38. These restrictions will be effective up to 26 June 2020.</p> <p>In response to the COVID-19 crisis, the MOLIP issued an announcement on 19 April 2020, mandating that all factories and establishments in Myanmar be shut down unless their operations met the guidelines and specifications issued by the MOHS to prevent the spread of the COVID-19 disease.</p>
2. Are there any specific exemptions for construction activities?	No. However, pursuant to MOHS’s Guideline dated 19 April 2020.	Construction workplaces not forced to close under MOHS Order No. 38, are still subject to certain obligations under which the owner must comply with announcements, orders and notifications issued by the MOHS, MOLIP and other relevant authorities for the prevention and control of COVID-19.
3. Are there any recent rule changes governing liability for labor contracts during construction project shutdowns (if applicable)?	N/A	No specific rules or instructions from the Government as part of COVID-19 response measures.
4. How are construction costs allocated in the event of a force majeure event? (i.e. construction costs absorbed by the contractor or the owner)	N/A	No specific instruction or guidance from the Government as part of COVID-19 response measures. This can be carried out under the terms and conditions of the contracts and subject to mutual agreement between the contracting parties.
5. Do any measures address obligations relating to real property rent or excuse of performance (i.e. right to delay rent payments, right to waiver of rent)?	N/A	No specific instruction or guidance from the Government as part of COVID-19 response measures. This can be carried out subject to mutual agreement between the contracting parties.
6. Are there any specific circumstances arising from Covid-19 affecting the real estate sector?	N/A	Most of the real estate sector is subject to local demand and all exhibitions are postponed due to Government restrictions such as those on public gatherings, travelling etc. and affected by delays in the supply of materials. While construction activities may continue, the requirements with regard to social distancing will affect the scope and types of work that can be completed in accordance with governmental requirements. Some construction work may be delayed as the supply of construction materials slows down during the COVID-19 period.

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PHILIPPINES*		
1. Has the government instituted any limitations or closure of public or private spaces?	<p>Yes pursuant to the Memorandum of the Executive Secretary dated 16 March 2020, Memorandum of the Executive Secretary dated 07 April 2020, DILG Memorandum</p> <p>Circular No. 2020-062 dated 21 March 2020, IATF Resolution No. 14 dated 20 March 2020, IATF Resolution No. 16, dated 30 March 2020, Insurance Commission Circular Letter No. 2020-40 dated 09 April 2020, DTI MC No. 20-16 dated 13 April 2020 and IATF-JTFCV Shield Guidelines on Authorized Persons Outside Residence (APOR) dated 17 April 2020, and IATF Resolution dated 23 April 2020.</p>	<p>The government initially placed the island of Luzon (where Metro Manila is located) under enhanced community quarantine from 17 March 2020 to 12 April 2020 (“ECQ Period”). The ECQ Period was subsequently extended until 30 April 2020. The period was further extended by the government in high-risk administrative regions, provinces, or areas across the country until 15 May 2020.</p> <p>During the ECQ Period, people must stay at home. One person per household is authorized to leave home to access basic necessities such as buying food and medicine subject to certain limited exemptions but with strict compliance to skeleton-workforce arrangements and strict social distancing measures.</p>
2. Are there any specific exemptions for construction activities?	Yes, under IATF Directives.	Limited work, such as the relocation of affected utilities on 13 rail projects were allowed to resume in Luzon amid the ECQ.
3. Are there any recent rule changes governing liability for labor contracts during construction project shutdowns (if applicable)?	Labor Code	No specific instruction or guidance from the Government regarding construction projects. General rules apply. Liability for labor contracts in the case of temporary or permanent closures of construction projects continue to be governed by the Labor Code.

*Prepared by DFDL’s collaborating firm in the Philippines, [Ocampo & Suralvo Law Offices](#).

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4. How are constructions costs allocated in the event of a force majeure event? (i.e. construction costs absorbed by the contractor or the owner)	Contracts and Civil Code	No specific instruction or guidance from the Government as part of COVID-19 response measures. A force majeure event may excuse performance if (i) the event is provided for under the terms of the contract or (ii) the event is considered a force majeure event under Philippine law (i.e. the cause is (i) unforeseeable or unavoidable; (ii) independent of the human will; (iii) renders it impossible for the obligor to fulfill his obligation in any manner; and (iv) the result of the injury to the creditor and such cause is not aggravated or participated in by the obligor.
5. Do any measures address obligations relating to real property rent or excuse of performance (i.e. right to delay rent payments, right to waiver of rent)?	Yes pursuant to DTI Memorandum Circular 20-04 dated 15 March 2020, Section 4(bb) of RA No. 11469 dated 25 March 2020, and DTI Memorandum Circular 20-12 dated 04 April 2020.	<p>Rental fees and charges for 15 March 2020 to 14 April 2020 are waived for retail stores and establishments located inside malls in the National Capital Region which were not allowed to operate during the general community quarantine. After 14 April, rental fees for establishments inside malls will accrue, unless voluntarily waived by mall owners.</p> <p>A minimum 30 day grace period is granted for payments on residential rents falling due within the ECQ Period, without incurring interest, penalties, fees, and other charges. Micro, Small, and Medium Enterprises that have temporarily ceased operations are likewise given a minimum grace period of 30 days on the payment of commercial rents falling due within the ECQ Period, without incurring interest, penalties or fees.</p> <p>No eviction for failure to pay the residential or commercial rent due may be enforced within the 30 day period after lifting of the ECQ.</p>
6. Are there any specific circumstances arising from Covid-19 affecting the real estate sector?	N/A	The community quarantine weakens the real estate sector in the Philippines. Construction activities are suspended in Luzon. Further, leasing activities and residential sales remain slow. As in most jurisdictions, the retail and hospitality sectors were the most affected by the quarantine.

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THAILAND		
1. Has the government instituted any limitations or closure of public or private spaces?	Regulation Issued under Section 9 of the Emergency Decree on Public Administration in Emergency Situations B.E. 2548 (2005) (No. 1)	The government orders require nationwide closure of non-essential facilities, including; natural tourist attractions, museums, public libraries, fitness centers, department stores.
2. Are there any specific exemptions for construction activities?	N/A	There are no specific exemptions for construction activities.
3. Are there any recent rule changes governing liability for labor contracts during construction project shutdowns (if applicable)?	No, but Ministry of Labor’s Ministerial Regulations Re: Benefits & Compensation for Unemployment due to Force Majeure Arising from the Epidemic of Dangerous Communicable Disease under the Communicable Disease Law B.E. 2563 (A.D. 2020) and Regulation on Criteria and Rates for Compensatory Benefits in the Event of Unemployment Amidst the Economic Crisis B.E. 2563 (2020) applies	Ministerial Regulations Re: Benefits & Compensation for Unemployment due to Force Majeure Arising from the Epidemic of Dangerous Communicable Disease under the Communicable Disease Law B.E. 2563 (A.D. 2020) grants benefits payable to the employees. The regulation defines Force Majeure to mean “danger which arises from the COVID-19 pandemic or other dangerous communicable diseases under the communicable disease law, which affect the public, and in an amount up to the level for which the insured persons (employees) are unable to work, or the employer is unable to operate the business in a usual manner.” The entitlement is available for the period of 1 March 2020 – 31 August 2020, or within any period to be further prescribed by the Minister of Labor with the approval of the cabinet.
4. How are construction costs allocated in the event of a force majeure event? (i.e. construction costs absorbed by the contractor or the owner)	N/A	No specific instruction or guidance from the government as part of COVID-19 response measures. A force majeure event may excuse performance (i.e. payment of construction costs) if (i) the event falls within the definition of force majeure under section 8 of the Civil and Commercial Code (ii) the performance of obligations is unable to be performed due to such force majeure or (ii) as provided for under the terms of the contract.
5. Do any measures address obligations relating to real property rent or excuse of performance (i.e. right to delay rent payments, right to waiver of rent)?	N/A	No specific instruction or guidance from the government as part of COVID-19 response measures.
6. Are there any specific circumstances arising from Covid-19 affecting the real estate sector?	Yes, pursuant to the Regulation Issued under Section 9 of the Emergency Decree on Public Administration in Emergency Situations B.E. 2548 (2005) (No. 2)	People, including construction workers, must stay at their residences between the time of 10pm to 4.00am of the following day, except for extreme necessity, persons working in certain vocations defined in the regulation with disease prevention measures taken in accordance with the regulation. While construction activities may continue subject to the curfew period, disease prevention measures must also be adhered to.

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VIETNAM		
1. Has the government instituted any limitations or closure of public or private spaces?	Yes pursuant to: (i) Directive No. 16/CT-TTg dated 31 March 2020; (ii) Official letter No. 2601/VPCL dated 3 April 2020 (iii) Directive No. 19/CT-TTg dated 24 April 2020 and (iv) Notification No. 170/TB-VPCP dated 28 April 2020	As part of initial response measures, the government required nationwide social distancing and closure of non-essential facilities. Such measures expired on 22 April 2020 and businesses have been allowed to reopen subject to certain continuing social distancing requirements. Pursuant to Directive No. 19/CT-TTg, the Prime Minister allowed facilities for business, commerce, and service (not designated as non-essential facilities (i.e. amusement centers, beauty salons, karaoke, bars, massage parlors, dance clubs, etc.) while maintaining a number of measures for the control and prevention of COVID-19 (i.e. washing hands, wearing facemasks, social distancing measures). On 7 May 2020, the Prime Minister published an article on the Vietnam Government Portal allowing the reopening of certain non-essential facilities but not including dance clubs and karaoke venues.
2. Are there any specific exemptions for construction activities?	Yes pursuant to: (i) Directive No. 16/CT-TTg dated 31 March 2020; (ii) Official letter No. 2601/VPCL dated 3 April 2020; (iii) Directive No. 19/CT-TTg dated 24 April 2020; and (iv) Notification No. 170/TB-VPCP dated 28 April 2020	Construction activities may continue during nationwide social distancing measures provided that the management of such facilities ensure and apply the required measures to prevent and control the pandemic under directives of the government and other relevant regulations.
3. Are there any recent rule changes governing liability for labor contracts during construction project shutdowns (if applicable)?	Yes pursuant to Official Letter No. 1064/LDTBXH-QHLDL dated 25 March 2020	Facilities affected by COVID-19 that are required to suspend operations can furlough employees subject to furlough wages being agreed by the employer and employee but not less than the minimum area wage stipulated by the Government (Article 98.3 of the Labor Code).
4. How are construction costs allocated in the event of a force majeure event? (i.e. construction costs absorbed by the contractor or the owner)	N/A	No specific instruction or guidance from the Government as part of COVID-19 response measures. A force majeure event may excuse performance if (i) the event falls within the definition of force majeure under the 2015 Civil Code, the Law on Construction and other relevant regulations or (ii) as provided for under the terms of the contract.
5. Do any measures address obligations relating to real property rent or excuse of performance (i.e. right to delay rent payments, right to waiver of rent)?	N/A	No specific instruction or guidance from the Government as part of COVID-19 response measures.
6. Are there any specific circumstances arising from Covid-19 affecting the real estate sector?	N/A	While construction activities may continue, the requirements on social distancing will affect the scope and type of work that can be completed in accordance with governmental requirements. As in most jurisdictions, the sectors most affected are the retail, leasing and hospitality sectors, which are not exempted from provisional closure orders.



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