



Date: 21 December 2020
Our Ref: SLS/P/RC/Letter/PMC-19

YBhg. Datuk Michael Lui Yen Sang
President
Kota Kinabalu Chinese Chamber of Commerce & Industry (KKCCI)
Jalan Laiman Diki, Kampung Air
P.O.Box 10063, 88801 Kota Kinabalu
Sabah

YBhg. Datuk,

FREE MEDIATION UNDER THE PUSAT MEDIASI COVID-19

Reference is made to the above matter.

Please be informed that The Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (Covid-19) Act 2020 provides for free Mediation to the public through the Pusat Mediasi Covid-19 ("PMC-19") and undertaken by the Sabah Law Society in Sabah.

PMC-19 is established by the Government of Malaysia to deal with the inability of any party or parties to perform any contractual obligation arising from any contracts in the schedule under Section 7 of the Temporary Measures for Reducing the Impact of Coronavirus Disease 2020 [Act 829]. The operating period of PMC-19 is for 12 months from 16 November 2020 to 15 November 2021, and the value of the dispute that can be referred to PMC-19 is not more than RM300,000.00 between two contracting parties.

We enclosed a copy of our press statement on PMC-19 for your kind attention and dissemination to the members of KKCCI.

If there are any queries, please contact our secretariat at 088-23 2662 for clarification.

Thank you.

Yours faithfully,
For and on behalf of Sabah Law Society

ROGER CHIN KEN FONG
President

Free Mediation under the Pusat Mediasi Covid-19 and Provided by the Sabah Law Society

The Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (Covid-19) Act 2020 provides for free Mediation to the public through the Pusat Mediasi Covid-19 (“PMC-19”) and undertaken by the Sabah Law Society in Sabah.

Eligibility criteria

Mediation through the PMC-19 is only available for disputes valued at a sum not exceeding RM300,000.00 between two contracting parties in respect of any inability to perform contractual obligations arising from any of the contracts covered (see below).

The Government of Malaysia will bear the cost of mediation services for individuals under the B40 and M40 categories as well as for Micro enterprises and Small Medium Enterprises (SMEs) as follows:

- B40 (household income of RM4,849.00 and below)
- M40 (household income of RM4,850.00 to RM10,659.00)
- Micro enterprises with a sales turnover of less than RM300,000.00 or less than 5 full time employees
- SMEs in the manufacturing sector with a sales turnover from RM300,000.00 to less than RM15 million or full-time employees from 5 to less than 75 people
- SMEs in the services and other sectors with a sales turnover from RM300,000.00 to less than RM3 million or full-time employees from 5 to less than 30 people.

Parties who are not eligible for the subsidy may still go through the mediation process under the PMC-19 at a prescribed payment rate of RM2,000.00 (RM1,000.00 per party).

Bankrupts or companies that have been wound up may also apply for mediation services under PMC-19 but are required to obtain approval from the Director of the Department of Insolvency.

Types of Contract Disputes Covered

Any dispute in respect of the inability of any party to perform any contractual obligation arising from any of the following categories of contracts due to the measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of Covid-19 may be settled by way of mediation:

- Construction work contract or construction consultancy contract and any other contract related to the supply of construction material, equipment or workers in connection with a construction contract
- Performance bond or equivalent that is granted pursuant to a construction contract or supply contract
- Professional services contract
- Lease or tenancy of non-residential immovable property
- Event contract for the provision of any venue, accommodation, amenity, transport, entertainment, catering or other goods and services²
- Contract by a tourism enterprise as defined under the Tourism Industry Act 1992 and a contract for the promotion of tourism in Malaysia
- Religious pilgrimage related contract.

The Mediation Process

The PMC-19 will commence operations from 16 November 2020. The services provided by the PMC-19 include a start to finish mediation scheme as well as a framework for appeal. An application for mediation services under PMC-19 can be submitted online in the PMC-19 system at <http://www.pmc19.gov.my/> requiring one to only do the following:

- successfully passing the COVID-19 Relatedness Assessment;
- submitting complete information; and
- submitting the Agreement to Mediation Form signed by both parties within the stipulated timeframe.

The processing period for mediation services through PMC-19 is 14 working days from the date of receipt by PMC-19 of a complete set of application documents. The process includes one mediation session of four hours but may be extended to four sessions if the disputed sum is within RM150,000.00 to RM300,000.00 and the mediator thinks that the mediation requires additional sessions.

Upon conclusion of a mediation and the reaching of an agreement by the parties regarding a dispute, the parties are to sign a written settlement agreement which is to be authenticated by the mediator. This settlement agreement shall be binding on parties.

Enforcement of settlement agreement

In the event of a breach of a settlement agreement, the affected party may bring the matter to Court for non-compliance of the settlement agreement.

Roger Chin
President
Sabah Law Society

18 December 2020