

EMERGENCY POWERS (COVID 19) (SPECIAL PROVISIONS) (AMENDMENT) ORDER, 2020

Arrangement of Order

Order

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EMERGENCY POWERS (COVID 19) REGULATIONS, 2020

**EMERGENCY POWERS (COVID 19) (SPECIAL PROVISIONS)
(AMENDMENT) ORDER, 2020**

In exercise of the powers conferred by the Emergency Powers (Covid 19) Regulations, **I HEREBY** make the following order –

1. Citation.

This Order, which amends the Emergency Powers (Covid 19) (Special Provisions) Order, 2020 (*S.I. No. 32 of 2020*), may be cited as the Emergency Powers (Covid 19) (Special Provisions) (Amendment) Order, 2020.

2. Insertion of a new orders 4A and 4B into the principal Order.

The principal Order is amended by the insertion immediately after order 4 of the following new orders –

“4A. Data Protection (Privacy of Personal Information) Act.

- (1) The National Insurance Board is, in accordance with section 13(e) of the Data Protection (Privacy of Personal Information) Act (*Ch. 324A*), permitted to share with a money transmission service provider approved in writing by the Competent Authority, the personal data of a data subject for the purpose of facilitating the payment of a national insurance benefit to the data subject through the money transmission service.
- (2) Nothing in this order shall be construed as relieving the approved money transmission service provider of the requirement to safeguard any personal data received by it in respect of any data subject in accordance with paragraph (1).

4B. Road Traffic Act.

The requirement to renew any license issued under the Road Traffic Act (*Ch. 220*) which expired during the state of public emergency is suspended from 17th day of March, 2020 for the duration of the state of public emergency and extending sixty days thereafter.”.

3. **Insertion of a new order 7A into the principal Order.**
The principal Order is amended by the insertion immediately after order 7 of the following new order –
- “7A. Intellectual property.**
The requirement under -
- (a) the Trade Marks Act (*Ch. 322*);
 - (b) the Industrial Property Act (*Ch. 324*);
 - (c) the Copyright Act (*Ch. 323*); and
 - (d) any other legislation relating to intellectual property, to file a document, to pay a fee or to renew a license or like matter is suspended from the 17th March, 2020 for the duration of the state of public emergency and extending fourteen days thereafter.”.
4. **Repeal and replacement of order 8 of the principal Order.**
Order 8 of the principal Order is repealed and replaced as follows -
- “8. Insurance premiums.**
- (1) In respect of any group, general, health, and life insurance policy, the obligation to pay any insurance premium under any policy of insurance is deferred from the 17th day of March, 2020 for the duration of the state of public emergency and extending a period of sixty days thereafter and during that period of sixty days –
 - (a) any deferred premiums are to be paid; or
 - (b) the insured and insurer shall enter an arrangement for the payment of the deferred premiums over a longer period of time.
 - (2) Paragraph (1) shall –
 - (a) apply in respect of persons who -
 - (i) are unable to pay the premium as a result of the termination of their employment; or
 - (ii) are unable to access electronic or any remote means to pay the premium;
 - (b) not apply -
 - (i) to any group, general, health and life insurance policy which shall continue to be paid electronically or by other remote means; or
 - (ii) to any person whose employment has not been terminated and who, prior to the commencement of the state of public emergency, has paid an insurance premium electronically or by other remote means or has access to make such payment.

- (3) Should any insured event occur in respect of an insured person whose premiums have been deferred and that event gives rise to the liability of the insurer to pay a claim, the insurer shall honour the claim and only deduct the outstanding premiums and any deductible from the money paid under the claim.”.

5. Insertion of new orders 10 to 15 into S.I. No. 32 of 2020.

The Emergency Powers (Covid 19) (Special Provisions) Order, 2020, is amended by the insertion immediately after order 9 of the following new orders –

“10. Business Licence Act and Value Added Tax Act deferred taxes.

- (1) For the duration of the state of public emergency and extending to thirty days thereafter -
 - (a) where an application for extension of time to pay value added tax is approved by the Comptroller of VAT, the reference in section 60(7) of the Value Added Tax Act (*No. 32 of 2014*), to the words “ An extension of time or other arrangement granted or made by the Comptroller pursuant to subsection (6) may include the waiver of a fine but does not affect the accrual of interest on all amounts of tax due and payable by a person that remains outstanding until actual payment is made” shall be suspended in relation to that person, and the following provision shall apply “An extension of time or other arrangement granted or made by the Comptroller pursuant to subsection (6) may include the waiver of a fine and interest accrued on all amounts of tax due and payable that remain outstanding at the date of the application.”; and
 - (b) where a licensee has made an arrangement with the Secretary under the Business Licence Act (*No. 25 of 2010*) to pay the amounts outstanding for business licence tax, the provisions of section JA and the Fourth Schedule of the Business Licence Act (*No. 25 of 2010*) shall be suspended in relation to that licensee,
provided that the applicant or licensee meets the criteria specified in paragraph (2) of Order 11.
- (2) The amount for which an extension of time may be approved by the Comptroller of VAT under paragraph (1) (a) and in relation to which an arrangement may be made by the Financial Secretary under paragraph (1)(b) shall not

exceed fifty percent of the taxes due and payable or three hundred thousand dollars in the aggregate.

- (3) All applications for an extension or arrangement under this Order shall be submitted to the relevant authority by the 30th June, 2020.
- (4) Where an extension of time or arrangement to pay is approved under this Order, the applicant may pay the amounts approved between January 2021 to December 2021.

II. Compensation to businesses affected by Covid 19 Regulations and Orders.

(1) A business whose growth or advancement was damaged, injured, or impaired by the provisions of the Emergency Powers (Covid 19) Regulations, 2020 and any Order made thereunder, and meets the criteria specified in paragraph (2) may apply to the Competent Authority through the Department of Inland Revenue for compensation outlined in paragraph (3).

(2) Orders 10 and 11 shall only apply to a business that -

- (a) is in good standing with all taxes up to February 2020;
- (b) has an annual turnover of at least three million dollars or such annual turnover as the Minister of Finance may approve;
- (c) has a minimum of twenty-five employees or such number as the Minister of Finance may approve;
- (d) retains at least 80 percent of all staff employed by the business as at the 29th February, 2020 and continue to employ such staff at least until the 31st October, 2020;
- (e) utilizes the compensation solely for the purpose of meeting the business' regular payroll obligations to non-executive staff for the period from 30th April, 2020 to 30th June, 2020; and
- (f) does not operate within the following sectors -
 - (i) hotels and resorts;
 - (ii) retail or wholesale grocery food establishments;
 - (iii) regulated telecommunications;
 - (iv) regulated financial and insurance business; or
 - (v) gaming.

- (3) The amount approved for compensation under this Order shall –
- (a) be in the form of a credit of up to fifty percent of the taxes due and payable by the applicant -
 - (i) under the Business Licence Act (*No. 25 of 2010*); and
 - (ii) between the 17th March, 2020 and the 30th June, 2020 under the Value Added Tax Act (*No.32 of 2014*);
 - (b) not exceed three hundred thousand dollars in the aggregate in respect of each applicant; and
 - (c) only be used by the applicant for its payroll obligations to non-executive staff for the period 1st April, 2020 to 30th June, 2020.
- (4) All applications for compensation under this Order must be submitted by the 30th June, 2020.
- (5) For the purposes of this Order -
- “non-executive staff”** means all employees of the business who -
- (i) do not hold the positions of or function in the capacities of president, vice president, director or similar positions within the business; or
 - (ii) are not the owners of the business; and
- “payroll obligations”** means the total gross basic pay of all non-executive staff of the business, and excludes bonuses, tips, gratuities, commission and severance pay.

12. Excess business licence tax.

Where a business receives an approval under Orders 10 or 11, any amounts payable for business licence tax by that business that are not covered under the grant of approval under Orders 10 or 11 shall become due and payable within 15 calendar days after such grant of approval.

13. Penalties.

- (1) Any person who knowingly makes a statement in respect of an application under Order 10 or 11 which is false in any material particular, commits an offence and shall be liable upon summary conviction to a fine not exceeding ten thousand

imprisonment not exceeding eighteen months or to both such fine and imprisonment.

- (2) Where –
- (a) an application under any of Orders 10 or 11 is approved on the basis of a false statement; or
 - (b) an applicant fails to comply with any condition or meet any criteria under either Orders 10 or 11, any approval granted under any of these orders to the applicant shall be immediately revoked and all taxes, penalties or interest that were credited, waived or deferred pursuant to Orders 10 and 11 shall become payable as if Orders 10 and 11 were not in force.

14. Internet or cable services.

- (1) In respect of any cable and internet services provided by Cable Bahamas or BTC, the obligation to pay the monthly bill is deferred from the 17th day of March, 2020 for the duration of the state of public emergency and extending a period of sixty days thereafter and during that period of sixty days –
- (a) any deferred payment are to be paid; or
 - (b) the customer shall enter an arrangement for the payment of the deferred bill over a longer period of time.
- (2) Paragraph (1) shall -
- (a) apply in respect of persons who -
 - (i) are unable to pay the bill as a result of the termination of their employment; or
 - (ii) are unable to access electronic or any remote means to pay the bill;
 - (b) not apply to any person whose employment has not been terminated and who, prior to the commencement of the state of public emergency, has paid a bill electronically or by other remote means or has access to make such payment.

15. Control of sale of personal protection equipment.

- (1) Any person who sells personal protection equipment to any person other than –
- (a) the Ministry of Health;
 - (b) the Public Hospital Authority;

- (c) a medical practitioner under Medical Act (No. 29 of 2014);
- (d) a person registered under the Dental Act (Ch. 226);
- (e) a veterinarian surgeon or practitioner under the Veterinarian Surgery Act (Ch. 245),

commits an offence and upon summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment of three months or to both such fine and imprisonment.

- (2) For the purposes of paragraph (1). “personal protection equipment” means garments used to protect healthcare workers and includes goggles, surgical masks or face-shields, gowns or coveralls, head cover, gloves or rubber boots.”.

Made this 16th day of April, 2020

Signed
HUBERT MINNIS
Prime Minister