

# CCS Insights : Covid-19 #2

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If you are handling Human Resources Department (“HR”), how you should response to this Movement Restriction Order (“MRO”):

✚ How and where you should refer to the Employment Act 1955? Is employer must pay even though employee is not on duty?

1. On 19 March 2020, Human Resources Ministry has issued a 7 pages Frequently Asked Question (“FAQ”)
2. This FAQ is widely spread among everybody since it consists of a few important information:
  - o Employer must paid employee full salaries/wages during the period of RMO (18 March 2020 to 31 March 2020)
  - o It is also applicable to the employee who is not covered by Employment Act 1955 **【Salaries above RM 2,000】** .
3. A lot of employees treat this FAQ as Imperial Sword (giving bearer arbitrary powers) and share it to their employers.
4. Actually, this FAQ is just a reference; it is not a Law and gazetted by Malaysia Government.
5. Most importantly, employers and employees must put themselves in others shoes.
6. With this mindset, the problems and disputes can be resolved.

✚ First question

7. Employer must pay even though employee is not on duty, is this mentioned anywhere in the Employment Act 1955?
8. Actually, there is. Please refer to the following table:



**Employer must pay even though employee is not on duty?  
Is this mentioned anywhere in the Employment Act 1955?**

59.	Rest day
60D	Holidays
60E	Annual leave
60F.	Sick leave
38	Payment of maternity allowance

The period from 18 Mar to 31 Mar is not covered in those sections.

However, our government express their concern on employees through issuing this FAQ, to request the employer to pay the employee for this 14 days MRO (but it is just a guidance, not a Law)

Thanks our Government  
Thanks Bosses

9. However, those sections do not cover the scenario like MRO.

#### Second question

10. For those employees who are not covered by the Employment Act 1955, any other Laws or Acts require the employer to pay even though employee is not on duty?

11. Actually, it is not indeed, unless the Government amend the Law.

12. Does it mean that what is mentioned in FAQ:

- Employer must pay even though employee is not on duty during the period from 18 March to 31 March 2020
- is this statement wrong?

13. Does it mean that what is mentioned in FAQ:

- Employer must pay even though employee (who is not covered by the Employment Act) is not on duty during the period from 18 March to 31 March 2020
- is this statement also wrong?



14. We are not the lawyer; We are unable to conclude the statements. We cannot say it is right, we cannot say it is wrong neither.
15. What we can say is that our government want to taking care of the employees. Hence, the government request the employers to pay employee during this period no matter whether the employee covered by the Employment Act.
16. Since the employees have to pay for meal, instalments for car/housing loan, tuition fee, insurance and even the medical fee for their families.
17. Therefore, these 14 days salaries would be bear by employers.
- o Since this is the social responsibilities
18. Actually, there are some employers who still have some financial reserves:
- o do not mind to serve the nation and provide the supports to the government policy  
【 and this is also the opinion that we would like to share to all SMEs on these 14 days salaries】
  - ❖ if the government can offer the Double Tax Deduction;
  - ❖ the exemption of EPF (employer portion) for certain period; and
  - ❖ Urging financial institutions to provide financial relief to businessman.
  
  - ❖ would this be better and fairer?
  - ❖ At least the government share the social responsibility with the employers
19. Besides, actually there are quite a lot of employees also understand the difficulties faced by the company. They are willing to reduce 50% of the salaries voluntarily after the discussion held in between the employers and employees. The government should not restrict this compassionate move from the employee.
- ❖ Since the employers also need to bear the operating expenditure



## Conclusion

20. Obviously, the objective of RMO announced by Prime Minister is to control the infection of the covid-19

21. Obviously the objective of FAQ announced by Ministry of Human Resources, which request the employer to pay the employee for these 14 days is to convey a message of social responsibilities.

22. Employers response and support the policies and FAQ announced by the Prime Minister and Ministry of Human Resources:

- Suspend the business operation
- Pay the salary

❖ It is praiseworthy

23. However, please do not forget that the “Put yourself in others shoes” and “to cross a river in the same boat and overcome the barriers together” are the key to resolve the disputes and difficulties.

24. Or else, nothing can be done.

25. What if:

- The Covid19 is still cannot be controlled after 1 April 2020,
- For all the business mans, especially the SMEs, they would not be able to pay the salary since they cannot even survive after this outbreak.

26. Therefore, everyone please Stay At Home, otherwise:

- the government’s efforts are wasted,
- the employer’s sacrifices are vain

✚ P/S: If the lips are gone, the teeth will be cold:

- ❖ If the employer lose the business, the employee also lose the job.
- ❖ Bear in mind: Employer and Employee are sharing weal and woe.



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