

Are Pre-School Fees Payable During The Period Of Movement Control Order?

To curb the outbreak of Covid-19, the Government of Malaysia has implemented a nationwide Movement Control Order ("Order") starting from 18 March 2020 to 14 April 2020 or any extension thereof ("Effective Period"). In order to minimise the spread of the disease, except for those fall within the definition of essential services in the Prevention and Control of Infectious Disease (Measures Within the Infected Local Areas) Regulations 2020, it requires most of the government and private business premises to be closed.

Hence, among others, kindergartens, government and private schools and institutions ("educational institution") are required to temporarily suspend their general services during the Effective Period.

The key questions then arise concerning the closure of educational institution would include among others: -

- *whether the parents or the students must continue to make regular payment?*
- *what if the parents or the students have made upfront payment which covers the Effective Period?*

At this moment, the government has yet to issue any specific directive in dealing on the payment of school fees for the Effective Period. From a legal perspective, where the payment to the educational institution is made on a monthly basis, then 'S.16 of Consumer Protection Act 1999 shall applies where it stated that businesses are prevented from demanding payments for goods or services when there are reasonable grounds to believe the services won't be supplied. Therefore, if no services such as e-learning and teaching activities are provided by the educational institution during the Effective Period, then the

parents or the students do not have to continue to make regular payments while services have ceased during the Effective Period.

Moving forward, if the payment is to be made annually or the payment which covers the Effective Period has been made in advance, the parties are advised to look at the terms and conditions of the contract and any cancellation policy announced by the educational institution. ⁱⁱIn many cases, fees will be paid up-front for a period and there is no right to a refund, as this is how the institutions can stay afloat if there is a chicken pox outbreak or influenza and the students have to stay at home. Nevertheless, it is optional, and is in the discretion of the board of educational institution whether to review and reduce the school fees.

The contents of this article are for general information purposes only. The contents are not intended to constitute any legal advice and should not be relied upon as a substitute for detailed legal advice on any specific matters.

Written by

Foo Suk Cen

(Associate)

sukcen.foo@ganzul.com

Tel: 03-2242 3836 (ext: 209)

ⁱ Section 16 of Consumer Protection Act 1999 [Act 599]

ⁱⁱ The Sun (UK), 19 March 2020, 'Can parents can get nursery fees refunded when they close due to coronavirus? – The Sun'
Accessed on 2 April 2020

Gan & Zul

Level 30, Tower B, Vertical Business Suite
Avenue 3, Bangsar South
No. 8, Jalan Kerinchi
59200 Kuala Lumpur
Federal Territory of Kuala Lumpur

Tel: 03-2242 3836
Website: www.ganzul.com
Email: kul@ganzul.com