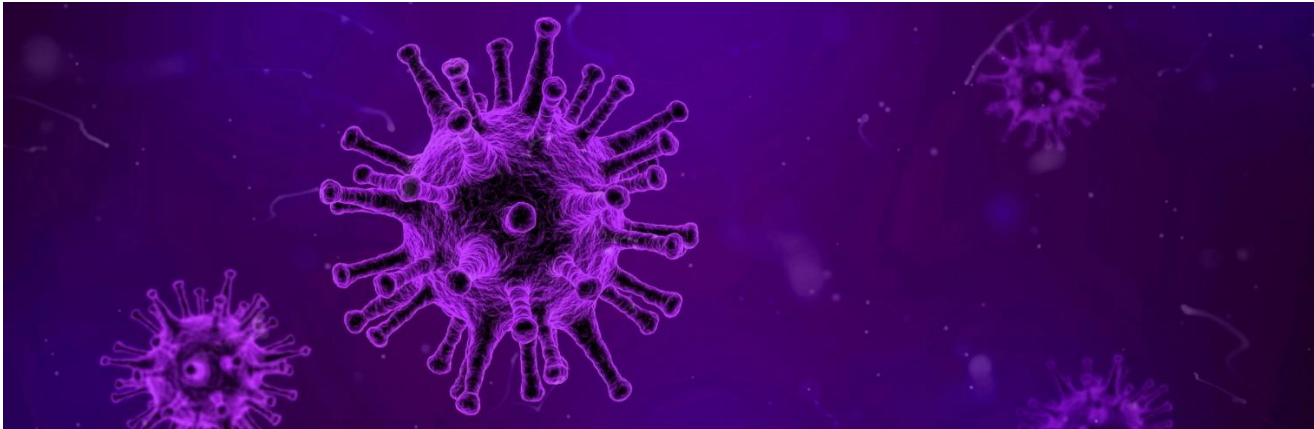


## MCO AND THE ECONOMIC STIMULUS PACKAGE 2020



The Prime Minister of Malaysia had on 16 March 2020 announced the imposition of a Movement Control Order (“**Order**”) in an attempt to control the outbreak of Covid-19. The Order, effective across the nation, was initially implemented for the period from 18 March 2020 until 31 March 2020 (“**Movement Control Period**”). On 25 March 2020, the Prime Minister announced an extension of the Movement Control Period by a further 14-day period until 14 April 2020 (“**Extended Movement Control Period**”). On 27 March 2020, the Prime Minister announced the PRIHATIN Rakyat Economic Stimulus Package as part of the Economic Stimulus Package to address possible concerns and consequences following the Extended Movement Control Period. For further information on the Economic Stimulus Package and Frequently Asked Questions on the package, please refer to <https://www.shinassociates.com.my/mco-and-the-economic-stimulus-package-2020/> and <https://www.shinassociates.com.my/mco-employer-faqs-economic-stimulus-package-2020/>.

## THE PRIME MINISTER’S SPEECH ON 6 APRIL 2020

On 6 April 2020, the Prime Minister announced the Additional PRIHATIN SME Economic Stimulus Package, specifically catering to providing initiatives for small and medium-sized enterprises (“**SMEs**”) affected by the Covid-19 outbreak (“**PRIHATIN SME+**”).

If you have any related questions/queries please do not hesitate to contact us:

E: [general@shinassociates.com.my](mailto:general@shinassociates.com.my) | T: +603 2201 5584

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According to the “Guideline for New SME Definition” issued by SME Corporation Malaysia in August 2016, a business can qualify as an SME if it meets either one of the two specified criteria, namely sales turnover or full-time employees, whichever is lower.

Category	Microenterprise	Small	Medium
Manufacturing	Sales turnover of <b>less than RM300,000 OR less than 5</b> full-time employees ( <i>for all sectors</i> )	Sales turnover from <b>RM300,000 to less than RM15 million OR</b> full-time employees from <b>5 to less than 75.</b>	Sales turnover from <b>RM15 million to not exceeding RM50 million OR</b> full-time employees from <b>75 to not exceeding 200.</b>
Services & Other Sectors		Sales turnover from <b>RM300,000 to less than RM3 million OR</b> full-time employees from <b>5 to less than 30.</b>	Sales turnover from <b>RM3 million to not exceeding RM20 million OR</b> full-time employees from <b>30 to not exceeding 75.</b>

If a business fulfils more than one criteria across the different sizes of operation, then the smaller size will be applicable. For example, if a business’ sales turnover falls under “microenterprise” but the number of employees fall under “small”, the business will be deemed to be a microenterprise.

The initiatives announced during the Prime Minister’s address include the following:

### 1. Wage Subsidy Programme (“WSP”)

The allocation towards the WSP has increased from RM5.9 billion to RM13.8 billion. Save for the matters stated below, the guidelines and principles announced on 27 March 2020 are still applicable. For further information and other frequently asked questions on the WSP, please refer to <https://www.shinassociates.com.my/mco-and-the-economic-stimulus-package-2020/>.

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As set out in the Frequently Asked Questions released by SOCSO on 8 April 2020 (“FAQs”), there are 3 categories of allocation available to SMEs which are as follows (“Enhanced WSP”):

<b>Table 1- Enhanced WSP</b>			
<b>Company Size</b>	Small	Medium	Large
<b>Number of Employees</b>	75 and below	Between 76 to 200	201 and above
<b>Subsidy Amount</b>	RM1,200 per month for each employee	RM800 per month for each employee	RM600 per month for each employee
<b>Limitations</b>	Limited to 75 employees	Limited to 200 employees	
<b>Eligibility Criteria</b>			
<b>1. Decline in Revenue or Sales Volume</b>	No requirement to demonstrate decline in revenue.	The employer must demonstrate a decline of 50% or more in sales volume or revenue by comparing with the sales volume or revenue in January, February and March 2020.	
<b>2. Registration Requirements</b>	(a) The employer and eligible employees must be registered with <b>OR</b> contributing to the Employees’ Social Security Organisation (“ <b>SOCSO</b> ”); (b) The employer must have been registered with the Companies Commission Malaysia (“ <b>CCM</b> ”) or local authorities prior to 1 January 2020; and (c) The employer must have been operating prior to 1 January 2020.		
<b>3. Eligible Employees</b>	Employees who are earning RM4,000 and below.		
<b>4. Others</b>	Employers who have opted to apply for the WSP must ensure that they retain their employees for at least a 6-month period (3 months while receiving the payment and the 3 months thereafter).		
<b>Payment Period</b>	3 months from 1 April – 31 December 2020		
<b>Application Deadline</b>	15 September 2020		
<b>Method of Payment</b>	Payment under the WSP will be credited to the employer’s bank account within 7 – 14 days from the date of approval.		

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According to the FAQs, applications for the Enhanced WSP may be made by employers commencing from 9 April 2020 onwards through the webpage <http://prihatin.perkeso.gov.my/> (“SOCSO’s Website”).

Applications for the WSP will end on 15 September 2020 and payments under the WSP will end on 31 December 2020. However, this is dependent on the balance of the funds allocated or any other subsequent decision by the Malaysian Government. The following documents are required for the WSP application:

- (a) A list of the eligible employees (limited to the maximum number of employees as stated in the table above);
- (b) Details of the employer’s bank account, namely a copy of the first page of the employer’s bank statement;
- (c) The employer’s business registration number used by the employer in the opening of the bank account stated in (b) above (to be inserted into the “*Borang BRN*” which can be downloaded from SOCSO’s Website);
- (d) A copy of SSM/ROS/ROB/professional, scientific or technical authority bodies/business licence;
- (e) PSU50 Declaration (“*Akuan Pengisytiharan PSU50*” which can be downloaded from SOCSO’s Website); and
- (f) Supporting documents such as financial statements or sales report verified by the management or other relevant documents (*only required for medium and large-sized companies, with 76 employees and above*).

While employers are not required to re-submit applications for the subsequent 2 months, it is imperative that the employer updates the SOCSO system if there are any changes in the status of the employers’ business or the number of eligible employees as failure to update the system of such changes may result in legal action being brought against the employer.

## 2. Special Grant for Micro-enterprises

A sum of RM2.1 billion has been allocated for eligible micro-enterprises. Eligible micro-enterprises will be allocated RM3,000 and must be registered with LHDN for this grant. A list of eligible micro-enterprises will be provided to the Government by the local authorities and CCM. As for the specific eligibility criteria for this special grant, such criteria is subject to the issuance of further guidelines or information on the same by the Government.

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### 3. Micro Loan Schemes

Micro-enterprises may opt for either one of these schemes:

#### (a) Micro Credit Scheme offered by Bank Simpanan Nasional ("BSN")

The micro-credit scheme announced previously covered financing up to RM75,000 for micro-enterprises at the interest rate of 2%. This interest rate has now been reduced and this scheme will now be available to eligible micro-enterprises at an interest rate of 0%. Micro-enterprises must have been in operation for at least 6 months to be eligible for this scheme. For further information on the eligibility criteria for this scheme, please refer to BSN.

#### (b) TEKUN Nasional Easy Loan Scheme

The Prime Minister announced a further allocation of RM200 million to TEKUN Nasional ("TEKUN"), an agency established under the Ministry of Entrepreneur Development. Under this scheme, eligible micro-enterprises can obtain a soft loan scheme of up to RM10,000 at an interest rate of 0%. For further information on the eligibility criteria for this scheme, please refer to TEKUN.

### 4. Waiver or Discounted Rental Rates

Several Government-linked companies ("GLCs") have agreed to provide waivers or discounts for rental rates for SMEs in the retail sector operating from business premises owned by the GLCs. Following on from this, to encourage private landlords to provide waivers or discounted rental rates to their SME tenants, such landlords will be given a further tax deduction equivalent to the amount of rental reduction from April 2020 until June 2020. To be eligible for this further tax deduction, private landlords must ensure that the reduction of rental is at least 30% of the original rental rate.

### 5. Reduction in Foreign Workers' Levy

The Prime Minister also announced a reduction of 25% on foreign workers' levy for companies where the work permits of foreign workers will expire within 1 April 2020 to 31 December 2020. This reduction is not applicable to domestic workers.

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## 6. Moratorium for lodgement of statutory documents to the CCM

A moratorium of 30 days will automatically be granted from now until the end date of the MCO for companies to lodge statutory documents to the CCM. For further details on this automatic moratorium, please refer to the “Frequently Asked Questions on the Moratorium of Submission of Statutory Documents to SSM” on the CCM’s website.

## 7. Extension of time for lodgement of financial statements to the CCM

Companies with a financial year ending from 30 September 2019 to 31 December 2019 may apply for a 3-month extension to lodge financial statements. Applications for this extension of time (“EOT”) can be made from 9 April 2020 by emailing the application to [eot@ssm.com.my](mailto:eot@ssm.com.my) and no fees will be imposed for this EOT application. The details required for the email are as stated in Appendix A of the “Frequently Asked Questions on the EOT for Lodgement of Financial Statements for Financial Year Ending 30 September 2019 until 31 December 2019” available on the CCM’s website.

## **FREQUENTLY ASKED QUESTIONS ON THE WSP**

### 1. **Who is not eligible to apply for the WSP?**

According to the FAQs, the following categories of persons are ineligible to apply for the WSP, namely:

- (a) employers which have only registered with the CCM, local authorities or the relevant professional, scientific and technical authority and commenced operations on or after 1 January 2020;
- (b) employers and employees which have yet to be registered with or contribute to SOCSO;
- (c) employees who have received the payment under the Employee Retention Program for the same months (*Refer to Question 3 below*);
- (d) employees who earn a monthly salary of more than RM4,000;
- (e) employees who have lost their jobs (*such employees will be entitled to benefits under the Employment Insurance System. Refer to Question 12 below*);
- (f) workers from the public sector, federal and state statutory bodies, statutory bodies with separate remuneration pensioners, local authorities and those who are self-employed (without an employer) including freelancers; and
- (g) foreign workers and expatriates.

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**2. What are the requirements to apply for the Enhanced WSP? Do they differ from the requirements under the previously announced WSP?**

In comparison with the requirements set by SOCSO on the initial WSP announced on 27 March 2020, additional requirements have been imposed. The criteria to be eligible for the WSP are:

- (a) the employer and its employees must either be registered with QR contributing to SOCSO;
- (b) the employer must be registered with the CCM, local authorities or professional, scientific or technical authority body prior to 1 January 2020;
- (c) the employer must have commenced operations prior to 1 January 2020;
- (d) the WSP is applicable to employees earning RM4,000 and below;
- (e) as for decline in revenue, only medium to large-sized companies, with 76 or more employees must show a decline of 50% or more in revenue in order to qualify for the WSP; and
- (f) employers must ensure that they do not retrench employees, instruct employees to take unpaid leave or impose pay-cuts for a period of 6 months from the receipt of the WSP payment (*i.e.* 3 months while receiving the payment and for a further 3 months thereafter).

**3. Can I apply for the Enhanced WSP if I have received payment under the Employee Retention Program (“ERP”)?**

Yes, provided the employer satisfies the criteria set out in Question 2 above, such employer may apply for the Enhanced WSP even if the employer has received payment under the ERP. However, such employer cannot make an application for the Enhanced WSP for the same employee and during the same month(s) as applied for under the ERP.

For example, if an employer has received payment on behalf of the employee under the ERP for the month of April, the employer cannot apply for the WSP in respect of this same employee for the month of April but may submit the WSP application for the subsequent months.

**4. If I have been operating before 1 January 2020 but have not registered with SOCSO, can I still apply for the Enhanced WSP?**

Yes, an employer who intends to apply for the WSP but has yet to register with SOCSO must ensure that the business (i) has registered with the CCM, local authorities or any professional, scientific or technical authority body prior to 1 January 2020; (ii) has at least 1 employee; and (iii) registers with SOCSO prior to the submission of the application. The employer must also ensure that the other requirements provided in Question 2 above are fulfilled.

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**5. If I have already submitted an application for the WSP previously announced on 27 March 2020, can I make another application for the Enhanced WSP?**

Yes, for employers who have more than 100 employees, such employers can submit new applications for the remaining employees with a limit of not more than 200 employees. This additional list of employees should not be the same as the one previously submitted and if it is the same, the application does not need to be re-submitted. The employer must also ensure that the criteria set out in Question 2 above are satisfied.

**6. Do I still need to show a 50% decline in revenue to apply for the Enhanced WSP?**

Yes, provided the size of business is medium sized (between 76 to 200 employees) and large sized (201 employees and above), an employer will still have to demonstrate a decline in revenue of at least 50% or more to be eligible for the WSP. For small sized businesses (75 employees and below), there is no longer a requirement to demonstrate such decline in revenue.

**7. Does the size of the business when looking at the number of employees, include foreign workers as well?**

Yes, pursuant to the FAQs, the size of the business based on the number of employees will include the total of local employees (Malaysian citizens) and foreign workers (non-Malaysian citizens).

**8. Are freelancers eligible for the WSP?**

Freelancers will be ineligible for the WSP as they are self-employed and have specifically been excluded from the WSP, as set out in Question 1 above.

**9. Does the Enhanced WSP apply only to employees earning under RM4,000 a month?**

Yes, the Enhanced WSP applies specifically to employees earning a monthly salary of RM4,000 and below.

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**10. How will SOCSO assess the salary of my employees to ensure that they are earning RM4,000 and below? Will allowances or commissions be included in the calculation as well?**

Yes, allowances (*excluding travel allowances*) and commissions will be included in the calculation. According to the FAQs, the interpretation of wages or income will be based on the interpretation of wages under the Act. Under the Act, “wages” is defined as “*all remuneration payable in money by an employer to an employee including any payment in respect of leave, holidays, overtime and extra work on holidays*” but excludes (i) any contribution payable by the employer to any pension fund or provident fund or under the Act; (ii) any travelling allowance or the value of any travelling concession; (iii) any sum paid to an employee to pay for special expenses incurred as a result of the employment; (iv) any gratuity payable on discharge or retirement; (v) annual bonus; and (vi) any other remuneration as prescribed.

Therefore, if an employee’s basic monthly salary is RM4,000 and below but taking into account allowances (*excluding travel allowance*) and/or other monetary payments which results in the total being above RM4,000, the employer will not be eligible to apply for the WSP in respect of the particular employee.

**11. What happens if I need to carry out retrenchment/salary reduction/instruction to take unpaid leave even if I have obtained the WSP? What are the consequences of not complying with the terms of the enhanced WSP?**

One of the requirements of the WSP is that an employer who applies for the WSP must not implement retrenchment measures/salary reduction or instruction to take unpaid leave for a 6-month period from the receipt of the WSP payment (*3 months while receiving the payment and for a further 3 months thereafter*), but it should be noted that this applies only to employees earning RM4,000 and below.

While the Government has imposed the above requirement, it appears that employers may still implement pay-cuts, instruct employees to take unpaid leave or retrench employees earning above RM4,000 provided that the relevant established laws and procedures are complied with.

If an employer imposes such measures on employees earning RM4,000 and below, the employer potentially risks legal action being brought by SOCSO against the employer.

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**12. Apart from the ERP and WSP, is there another programme for those who have lost their jobs?**

Yes, for those who have lost their jobs, provided the eligibility criteria is satisfied, such employees may refer to SOCSO for benefits under the Employment Insurance System (“EIS”). As summarised in the FAQs, the details of each programme are as set out below:

Programme	Employment Insurance System (“EIS”)	ERP	WSP
<b>Relevant Legislation/ Announcement</b>	Employment Insurance Act 2017	Economic Stimulus Package 2020 announced on 16 March 2020	PRIHATIN announced on 27 March 2020 and the enhanced PRIHATIN announced on 6 April 2020
<b>Beneficiary</b>	Employees who have lost their jobs	Employees who have been instructed to take unpaid leave by their employers	Wage subsidy provided to employers to ensure that employees are retained
<b>Commencement Date</b>	1 January 2018	1 March 2020 (Applications for the ERP commenced on 20 March 2020)	1 April 2020
<b>Application submission</b>	To be submitted by the employees	To be submitted by the employer on behalf of the employee	To be submitted by the employer
<b>Criteria</b>	<ol style="list-style-type: none"> <li>1. Loss of employment;</li> <li>2. Other criteria for eligibility of the EIS are satisfied;</li> <li>3. Employees are ready to work and are actively seeking for employment.</li> </ol>	<ol style="list-style-type: none"> <li>1. Employees earning a monthly salary of RM4,000 and below;</li> <li>2. Minimum unpaid leave period of 30 days</li> </ol>	<ol style="list-style-type: none"> <li>1. Employees earning a monthly salary of RM4,000 and below;</li> <li>2. Employers must ensure that all employees are retained for at least 6 months from the date of receipt of the WSP payment (3 months while receiving the payment and for a further 3 months thereafter);</li> </ol>

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Programme	Employment Insurance System ("EIS")	ERP	WSP
			3. The other criteria as stated in Question 2 above are satisfied.
<b>Benefit(s)</b>	1. Job Seekers' allowance of 30% – 80% of the usual monthly wage for a period of 3 to 6 months; 2. Training fees and allowance and other fees	RM600 per month for each employee from a period of 1 month up to 6 months	RM600, RM800 or RM1200 per month for each employee depending on number of employees for a period of 3 months  <i>(Please refer to Table 1 above)</i>
<b>Application Portal</b>	<a href="https://eis.perkeso.gov.my">https://eis.perkeso.gov.my</a>	<a href="https://www.perkeso.gov.my/">https://www.perkeso.gov.my/</a>	<a href="http://prihatin.perkeso.gov.my/">http://prihatin.perkeso.gov.my/</a>

### POINTS TO NOTE

The above is extracted and based on information and documentation as at 13 April 2020 and is subject to further changes/ updates by the Malaysian Government and the respective Government agencies.

Following on from the previous announcement of the PRIHATIN package on 27 March 2020, the Malaysian Government had, on 6 April 2020 announced the PRIHATIN SME+ to further enhance the previous initiatives under the Economic Stimulus Package 2020, to provide initiatives specifically catered for SMEs.

Similar to what was previously announced, employers must not retrench employees, impose pay-cuts or unpaid leave on employees earning RM4,000 and below for at least 6 months from the date of receipt of the payment under the enhanced WSP. If such employers still proceed to implement such measures, this will potentially open such employers to legal action from SOCSO.

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