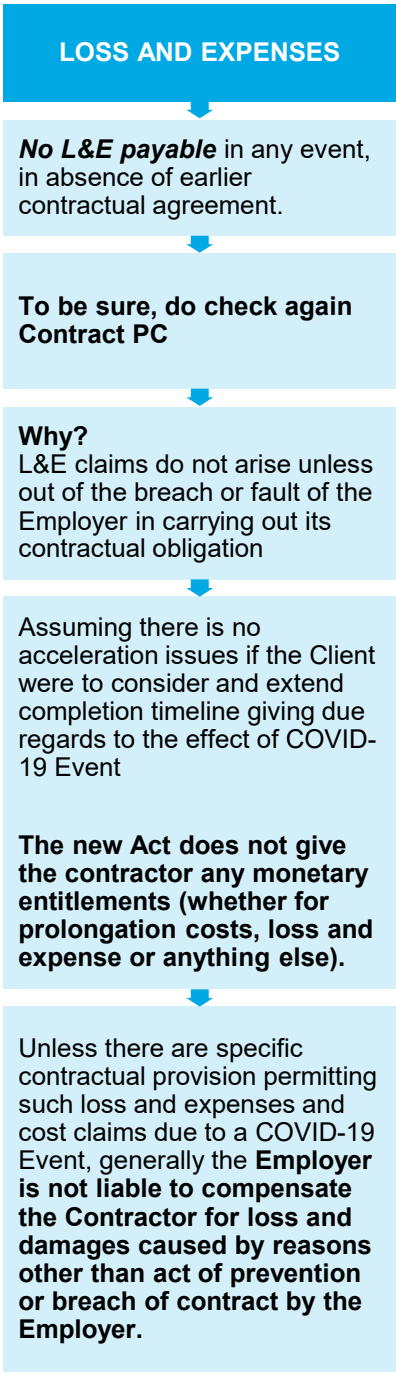
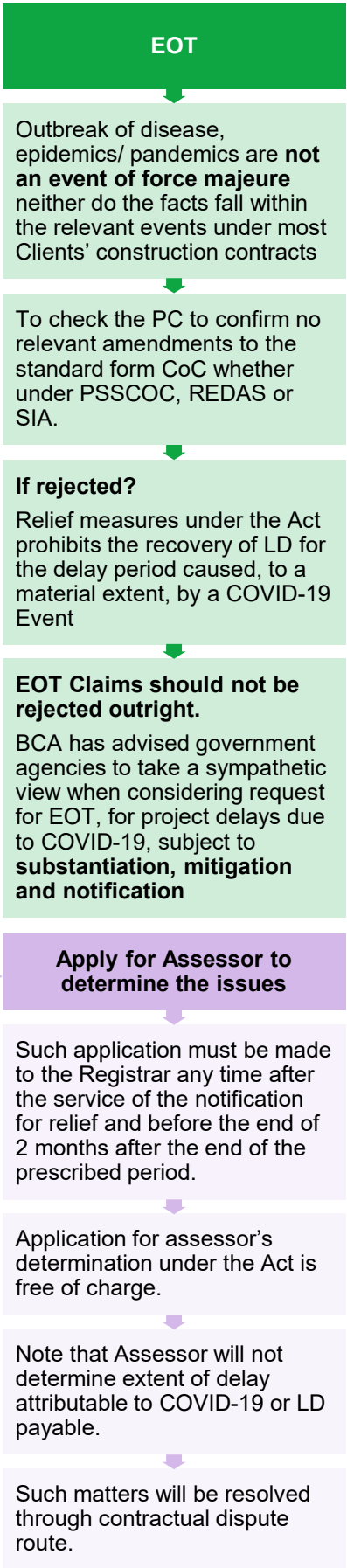
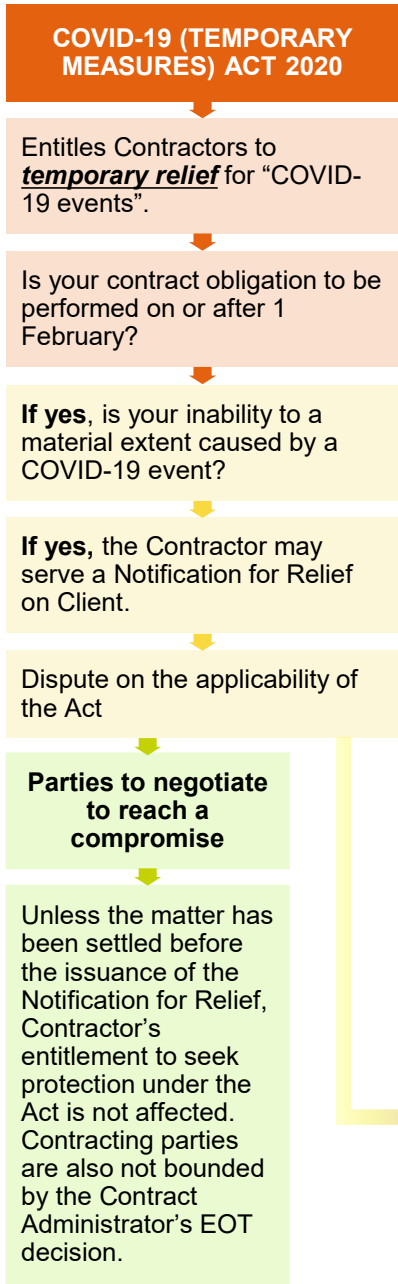


COVID-19 (TEMPORARY MEASURES) ACT 2020

Flowchart on Impact of Bill on Relief,
EOT, L&E, Cost Claims

May 2020



ARCADIS RECOMMENDATIONS

EXISTING PROJECTS

The relief and prohibition of action under the Act would only be triggered after the Contractor served a compliance Notification for Relief.

Parties should strategise and consider if issues can be resolved through a **commercial compromise / agreement** between the parties and adopting a **proactive and flexible** approach

As there is for most contracts no L&E but EOT relief only, Employer should be careful in assessing Contractor's EOT applications and consider their merits fully.

Allowing EOT
Employers can write to Contractor and allow EOT for at least the period of the Circuit Breaker

Acknowledge receipt of notification

Assuming work progress is disrupted, invite the Contractor to provide proper and detailed documents and records to substantiate the impact on the progress of works and how their inability to carry out their works was caused by COVID-19 event to a material extent.

Ensure Contractor includes:
1) Mitigation efforts by a specified date
2) Clearly state how they will provide further updates by a certain date after each subsequent calendar month

COMMERCIALLY AGREE
Consider a holistic review of the time for completion and commercially agree, on an ex-gratia basis, a realistic revised Completion Date for all parties to focus and move the project towards completion.

For public projects, the Employer should take heed from BCA advisory to government agencies on considering request for EOT for project delays due to a COVID-19 Event and authorise the SO/contract administrator to evaluate such EOT claims accordingly

Rejecting EOT
Contractor may well trigger the assessor determination process under the Act and assuming not withdrawn / amicably resolved, and assessor would have to determine

CHALLENGE THE NOTIFICATION
Client may challenge the notification and the applicability of the Act to provide relief to the Contractor, e.g. the delay was not caused by COVID-19 event under the Act.

An Assessor will be appointed to determine whether the temporary relief measures apply, and if so, to make a further determination to achieve a just and equitable outcome in the circumstances of the case and he may agree with contractor.

NEW PROJECTS

The Act is **not** relevant for new contracts or new projects entered into now.

It only provides temporary relief from the inability to perform contractual obligations under certain contracts entered **before 25 Mar 2020** and for obligations to be performed **on or after 1 Feb 2020**.

CHECK WITH YOUR LEGAL TEAM

We advise that all clients discuss with your in house and external legal Counsel for good order on the implications of the Act. The Act is unique and reflected the urgent need for certain temporary measures and other matters relating to the COVID-19 pandemic and was passed by Parliament in some hurry with all 3 readings and assent by President all on the same date (7 Apr 2020).

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