

EXPLORING THE LAW ON THE MOVEMENT CONTROL ORDER IN MALAYSIA TO FIGHT THE COVID-19 PANDEMIC

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Abstract: This paper explores the laws enforced for the Movement Control Order (MCO) in Malaysia, which are the Prevention and Control of Infectious Diseases Act 1988 [Act 342] and its subsidiary legislations, to fight the COVID-19 pandemic. The MCO was first enforced in Malaysia on March 18, 2020. This paper aims to explore and inform the non-legal person on the legal mechanisms in Malaysia during COVID-19. This paper applied the qualitative research approach, where the methodology used was a socio-legal analysis with reference to specific legal texts and statutes of Malaysia. Legal analysis was conducted on the main law, which Act 342, and its subsidiary legislations. Information by way of secondary data was also obtained from the official website of the Ministry of Health of Malaysia and newspaper articles. It was observed and concluded that the role of law is essential in times of crisis. The MCO in Malaysia has a significant role as a preventive measure in reducing the spread of COVID-19 and to break the chain of virus infection. Non-compliance is an offence, punishable by law and upon conviction, offenders are fined or imprisoned, or both.

Keywords: COVID-19, Malaysia, movement control order, Prevention and Control of Infectious Diseases Act 1988 (Malaysia) [Act 342], law.

Introduction

The highly infectious COVID-19 disease spread rapidly all over the world from its place of origin of Wuhan city in Hubei province, China, in December 2019 (Ali and Alharbi, 2020). The World Health Organisation (WHO, 2020) declared COVID-19 as a pandemic on the March 11, 2020. Malaysia's prime minister, on March 16, 2020, announced stringent legal preventive measures that aim to break the chain of COVID-19 infection in the country, known as the Movement Control Order (MCO). Unlike in other countries, the MCO is not a total lockdown, but rather a partial lockdown, as some essential services are still allowed to operate.

COVID-19 was first recorded in Malaysia on January 25, 2020, in Wuhan tourists (Berita Harian, 2020). From thereon, positive COVID-19 cases in the country increased and the Malaysian government decided to implement

the MCO. A day before its enforcement, two deaths involving COVID-19 patients from Johor and Sarawak were reported (The Star, 2020). The MCO was enforced just in time to manage the rapid spread of infection.

“Like science, emerging viruses know no country” (Morse 1993). Under public health, the role of law can be divided either as a proactive or preventive measure, or a reactive one (WHO, 2016). The MCO was considered as an effective mechanism in preventing the spread of the infectious disease. “The law has the potential to be a very useful tool for the attainment of public health” (Martin, 2006). Martin (2006) agreed that state and community rights prevailed over the rights and interests of individuals in cases of public interest, such as in the event of harmful diseases, even when such rights encroached on individual rights and interests.

This is primarily a socio-legal related research. For the first time ever, Malaysia enforced Act 342 throughout the whole of Malaysia, using the MCO as a tool for controlling and preventing the spread of COVID-19 infections. Socio-legal studies related to this topic in Malaysia are scarce or still ongoing. The topic was chosen based on the most current issue and application of the updated laws in Malaysia. More socio-legal research is needed on the importance of law, particularly on its effectiveness in controlling and curbing COVID-19. This constitutes the novelty aspect of this research.

This paper aims to explore and inform the public for its better understanding on the legal mechanisms used to handle COVID-19 in Malaysia. Law in this context means all related laws, including subsidiary legislations, pertaining to the MCO as enforced in Malaysia.

The methodology used was a socio-legal analysis with reference to legal texts and statutes of Malaysia. Content analysis was conducted using secondary data obtained from the official website of the Ministry of Health (MOH) Malaysia, newspaper articles and Worldometer, a website with the latest COVID-19 updates on all countries. Observations, where available, were provided as to the number of positive COVID-19 reported cases obtained from the official website of MOH. All legislations and subsidiary laws were obtained and accessed from the Attorney General's Chambers official website for the government's *e-gazette* and also from Percetakan Nasional Berhad Malaysia, a website with current information on Malaysia's legislations.

Results and Discussions

The Main Law to Fight COVID-19 in Malaysia

The Prevention and Control of Infectious Diseases Act 1988 [Act 342] is the core legislation in preventing and controlling COVID-19 in Malaysia. Other complementary laws are the Police Act 1967 [Act 344], Penal Code [Act 574] and Communications and Multimedia Act 1998 [Act 588]. The Police Act is applicable

in providing human resource assistance to implement and enforce the legal mechanisms. The Penal Code is to cater for criminal cases related to offences supplemental to the breach of MCO, while the Communications and Multimedia Act is to cater to the spread of false news, which may cause panic and social disorder. For the purpose of this paper, only the Prevention and Control of Infectious Diseases Act 1988 [Act 342] and its subsidiary laws will be discussed.

The Prevention and Control of Infectious Diseases Act 1988 (Act 342)

Act 342 was first enforced on the April 1, 1989, in Malaysia. It was originally drafted to consolidate all laws relating to the prevention and control of infectious diseases in Malaysia for the purpose of uniformity and compliance with international health regulations (Malaysian Parliamentary Hansard, 1988). The act consists of six parts with 33 sections on the title, administration matters, prevention of importation of infectious disease, control of the spread of infectious disease, offences and penalties, and miscellaneous items.

Section 2 of Act 342 defines an "infectious disease" as "any disease specified in the First Schedule". The First Schedule of Act 342 identifies and categorises infectious diseases to enable the enforcement of regulations under Act 342 for the control and prevention of infectious diseases. However, COVID-19 is not listed in the First Schedule of Act 342, but it is instead listed as an "infectious disease" under the subsidiary legislation of Act 342 P.U. (A) 87 with effect from March 18, 2020. This was rather unusual considering that in 2016, the MERS-CoV was added as an "infectious disease" in the First Schedule of Act 342 under the Prevention and Control of Infectious Diseases (Amendment of First Schedule) Order 2016 [PU (A) 298/2016] with effect from December 1, 2016. In this regard, presumably, COVID-19 is listed under the general category of "any other life threatening microbial infection" of the First Schedule of Act 342. Accordingly, this issue has been settled as the First Schedule of Act 342 had been amended to include COVID-19 as

an infectious disease. It was gazetted on June 9, 2020, which means that COVID-19 is included as an infectious disease at item 17A of the Malay text of Act 342 and at 3A for the English text of Act 342 via the Prevention and Control of Infectious Diseases Act 1988, Prevention and Control of Infectious Diseases (Amendment of First Schedule) Order 2020 P.U.A (179).

Declaration of Infected Local Area

The minister of health, when exercising his powers under Section 11 of Act 342, and duly satisfied that Malaysia is threatened with an infectious disease, declared Malaysia as an infected areas under Order P.U. (A) 87/2020 effective March 18 to 31, 2020. This order was then extended by Order P.U. (A) 98/2020, effective April 1 to 14, 2020, and effective April 15 to 28, 2020 by Order P.U. (A) 116 and extended effective April 29, 2020, to May 12, 2020, by Order 2020 P.U. (A) 132. Order 2020 P.U. (A) 146 and Order 2020 P.U. (A) 180 further stretched the declaration of the infected areas to be effective until August 31, 2020

Under Act 342, “isolation” means the separation of a person or group of persons from other persons to prevent the spread of infection, and includes the treatment of a person or group of persons. “Observation” is the exclusion of any contact or person suspected of suffering from any infectious disease and a “quarantine station” is any place of isolation or observation, including an infectious disease hospital and any place declared by the minister of health to be a quarantine station.

General offences are provided under Section 22 to include offences against authorised officers in the execution of their duty. If there is no specific penalty, a general penalty is applicable as provided under Section 24 as follows:

- (a) in respect of a first offence, imprisonment for a term not exceeding two years or a fine, or both;
- (b) in respect of a second or subsequent offence, imprisonment not exceeding five years or a fine, or both;

- (c) in respect of a continuing offence, a further fine not exceeding RM200 for every day during which such offence continues.

Offences under Act 342 can be compounded for a sum of money not exceeding RM1000 as provided under Section 25, while Section 31 gives power to the minister of health to make regulations to prevent and control any infectious disease, including on offences.

The Movement Control Order (MCO)

The MCO was enforced in a few phases, with the latest being Phase 8. Phase 1 was from March 18 to 31, 2020. Meanwhile, Phase 2 was effective from April 1 to 14, 2020; Phase 3 from April 15 to 28, 2020; Phase 4 from April 29, 2020, to May 3, 2020; Phase 5 from May 4 to 12, 2020; Phase 6 from May 13, 2020, to June 9, 2020; and Phase 7 from June 10, 2020, to August 31, 2020. Finally, Phase 8 was from September 1, 2020, to December 31, 2020.

Phase 1 of the MCO from March 18 to March 31, 2020

During Phase 1 of the MCO, restrictions on movements and gatherings were imposed. Only essential services were allowed to operate. All schools, higher institutions and government offices and private premises were shut, except for necessary services. These included utilities services, postal services, transportation, irrigation, oil, gas, fuel, lubricants, broadcasting, financial and banking services, healthcare facilities, pharmacies, fire departments, prisons, ports, airports, security, defence, cleaning, retail and food supply. Malaysian borders were closed to tourists and visitors. Malaysians who had just returned from abroad were also required to self-quarantine for 14 days. The stringent legal measures taken by the government to enforce the MCO were conducted at the most appropriate time to prevent and control the spread of COVID-19 in the country. The list of subsidiary legislations during MCO Phase 1 is listed in Table 1.

Table 1: Subsidiary legislations during MCO Phase 1 and effective dates

Subsidiary Legislations	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) Order 2020 / P.U. (A) 87	March 18 to 31, 2020
Prevention and Control of Infectious Diseases (Measures Within the Infected Local Areas) Regulations 2020 [P.U. (A) 91/2020].	March 18 to 31, 2020
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 P.U.(A) 327/93	March 15, 1994
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) Regulations 2020. P.U. (A) 99	March 27, 2020

Source: Federal *e-gazette*, Attorney General's Chambers of Malaysia (March 18, 2020)

Phase 2 of the MCO from April 1 to 14, 2020

During Phase 2 of the MCO, an infected local area was defined as any area declared to be infected under Order [P.U. (A) 87/2020] as extended by the Declaration of Infected Local Areas (Extension of Operation) Order 2020 PU(A) 98/2020, effective from April 1 to 14, 2020. Under this condition, the whole of Malaysia was considered an infected area as was previously declared in Phase 1. Under Order No. 2, restrictions of movement were limited to specific purposes.

Movement of persons is allowable from one place to another within a limit of not more than a 10 km radius from the person's residence to buy food, daily necessities, medicine or dietary supplement; for supplying or delivering of food and to seek healthcare or medical services; performing of duties permitted, including those under essential services. "Essential services" were limited to those related to fire, postal, prison, immigration, customs and wildlife services. These were omitted in the list in Phase 1. Movements to carry out infrastructure work related to essential services were allowed. Food businesses were only allowed to serve takeaways and via delivery.

No person is allowed to be accompanied by another person unless reasonably necessary. If a person needs to move from one place to another for "a special and particular reason, that person shall obtain prior written permission of the police officer in charge of the nearest police station to

the residence of the person". Crowd gatherings were also prohibited. Every Malaysian citizen, including permanent residents or any expatriate, must undergo a health examination upon arrival in Malaysia.

Contravention of the regulations is an offence and shall, upon conviction, be liable to a fine not exceeding RM 1,000 or imprisonment not exceeding six months or both. The same applies to a legal business entity and upon conviction, the legal business entity is liable to the same punishment or penalty as an individual, unless all reasonable precautions and exercised due diligence to prevent the commission of the offence had been taken.

During Phase 2 of the MCO, the new reported cases were contained and controlled. This is a good indicator that the MCO is an effective measure to prevent and control COVID-19. The list of subsidiary legislations during Phase 2 of the MCO is presented in Table 2.

Phase 3 of the MCO from 15 April 2020 to 28 April 2020

During Phase 3 of the MCO, Order P.U. (A) 116 continues the operation of Order [P.U. (A) 87/2020], which had been extended from April 15 to 28, 2020.

Generally, provisions of MCO Phase 3 are Regulations 2020 P.U. (A) 117. It provides for the control of movements, conditions of

Table 2: Subsidiary legislations during MCO Phase 2 and effective dates

Subsidiary Legislations	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) Order 2020 P.U.(A) 98/2020	April 1 to 14, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) Regulations 2020 P.U. (A) 109/2020	April 1 to 14, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) (Amendment) Regulations 2020. PU(A) 112/2020	April 3, 2020
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 [P.U. (A) 327/1993]	March 15, 1994
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No. 2) Regulations 2020 PU(A) 111/2020	April 1, 2020

Source: Federal *e-gazette*, Attorney General's Chambers of Malaysia (April 1, 2020)

movements, movements due to special and particular reasons, control of gatherings, movements to carry out works on infrastructure, health examination requirements upon arrival in Malaysia, direction of the the Health director-general, offences and list of essential services. These provisions reiterated all provisions in the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) Regulations 2020 of MCO Phase 2. The list of essential services is also similar, except for item 14, where an addition was made to include "any service, work or industry as determined by the minister after consultation with the authorities regulating the services, works or industry". Table 3 shows the list of subsidiary legislations during Phase 3 of the MCO.

Phase 4 of the MCO from April 29, 2020, to May 12, 2020

During Phase 4 of the MCO, P.U. (A) 132 continues the operation of P.U. (A) 87/2020 which had been extended from April 29, 2020, to May 12, 2020.

Generally, provisions under Phase 4 of the MCO are under P.U. (A) 133. These provide for control of movements, conditions of movements, movements due to special and particular reasons, control of gatherings, movements to carry out works on infrastructure, health examination requirements upon arrival, directions of the Health director-general, offences and list of essential services. The provisions reiterated all provisions in the Prevention and Control of

Table 3: Subsidiary legislations during MCO Phase 3 and effective dates

Subsidiary Legislation	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) (No. 2) Order 2020 P.U. (A) 116	April 15 to 28, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 3) Regulations 2020 P.U. (A) 117.	April 15 to 28, 2020
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 - P.U.(A) 327/1993.	March 15, 1994
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No. 3) Regulations 2020 P.U. (A) 118.	April 15, 2020

Source: Federal *e-gazette*, Attorney General's Chambers of Malaysia (April 15, 2020)

Infectious Diseases (Measures within Infected Local Areas) (No. 3) Regulations 2020 of MCO Phase 3, except for Regulation 4(1)(ii), which refers to conditions for movements, where a person may be accompanied by one family member staying in the same house. This means that two people are allowed to move from one place to another within the radius of 10 km as opposed to that in Phases 1, 2 and 3, which provisioned that any movement be restricted to only one person.

MCO Phase 4 was revoked on May 4, 2020, when MCO Phase 5 was enforced. Generally, MCO Phases 4 and 5 are commonly called the “Conditional Movement Control Order” (CMCO), as almost all economic sectors of businesses have been allowed to operate with certain requirements and prior approval from the government. Social activities without mass gatherings were also permitted. The list of subsidiary legislations during Phase 4 of the MCO is presented in Table 4.

Phase 5 of the MCO from May 4 to 12, 2020

The Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 5) Regulations 2020 P.U. (A) 136 (MCO Phase 5) has revoked P.U. (A) 133 effective May 4, 2020 (MCO Phase 4).

Also known as the CMCO, MCO Phase 5 was implemented on May 4, 2020. Although the CMCO is a relaxed version of the MCO, it still revolves around movement control. Border controls are still not lifted. However, most economic and social activities are allowed to resume operation in a controlled manner.

As announced by the prime minister, the two key criteria for MCO Phase 5 are to stimulate the economy and to prioritise health with strict standard operating procedures (SOP) in place (BERNAMA, 2020). Accordingly, MCO Phase 5 has, listed in its schedule in Regulation 2 of P.U. (A) 136, 13 prohibited activities related to crowd gatherings, including entertainment, leisure and recreational activities, religious, cultural and art festivities, activities at labour quarters, hostels or dormitories, fitting of clothes, trying out fashion accessories in stores, services in barber shops and salons, creative industries, such as filming and advertisements, and including cruise ships and tourism. Business activities that may cause crowds to gather, such as financial services industry and commercial activities involving sales and marketing not within the premises of the financial institutions or businesses, are also listed as prohibited activities. However, the list excluded food businesses, such as food courts, hawker centres, food stalls, food trucks and the like. The list of subsidiary legislations during Phase 5 of the MCO is presented in Table 5.

Table 4: Subsidiary legislations during MCO Phase 4 and effective dates

Subsidiary Legislation	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) (No. 3) Order 2020 P.U. (A) 132.	April 29, 2020, to May 12, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 4) Regulations 2020 P.U. (A) 133.	April 29, 2020 to May 12, 2020 (Revoked effective May 4, 2020)
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 - P.U.(A) 327/1993.	March 15, 1994
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No. 4) Regulations 2020 P.U. (A) 134.	April 29, 2020 to May 12, 2020 (Revoked effective May 4, 2020)

Source: Federal *e-gazette*, Attorney General’s Chambers of Malaysia (May 12, 2020)

Table 5: Subsidiary legislations during MCO Phase 5 and effective dates

Subsidiary Legislation	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) (No. 3) Order 2020 P.U. (A) 132.	April 29, 2020, to May 12, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 5) Regulations 2020 P.U. (A) 136.	May 4 to 12, 2020 (revoked the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 4) Regulations 2020 P.U. (A) 133 effective May 4, 2020)
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 - P.U.(A) 327/1993.	March 15, 1994
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No. 5) Regulations 2020 P.U. (A) 137.	May 4 to 12, 2020

Source: Federal *e-gazette*, Attorney General's Chambers of Malaysia (May 12, 2020)

Phase 6 of the MCO from 13 May to 9 June 2020

Phase 6 of the MCO continued with some flexibility. Travel was still prohibited, and gatherings and processions were still under control. Movements were also restricted, except for workers commuting to and from work. In Sarawak, no movement was allowed from one district to another. However, commencing May 23, 2020, prayers at places of worship were allowed if permitted by the director-general of Health. Private vehicles can now carry passengers who live in the same house and the number of the passengers is no longer limited to three, but for any number as regulated under the Road Transport Act 1987 [Act 333]. However, provision on the requirement of inbound travellers to Malaysia to undergo a health examination upon arrival still remains. The list of subsidiary legislations during Phase 6 of the MCO is presented in Table 6.

Phase 7 of the MCO from June 10, 2020, to August 31, 2020

MCO Phase 7 was a recovery stage, and an initial stage to exit the MCO, known as the "Recovery MCO" (RMCO). During this phase, the MCO continued with more enhanced flexibility. Fewer restrictions were implemented, except on areas

put under Enhanced MCO (EMCO) as provided under Section 11(3) of Act 342. Restrictions of travel between one infected local area to another were also lifted. Processions, however, were still prohibited.

Undergoing a health examination is still required upon arrival in Malaysia. However, the compulsory quarantine requirement at quarantine stations had been lifted by the Revocation of Declarations of Quarantine Stations 2020 P.U.[B] 275, gazetted on June 9, 2020, and replaced with a compulsory home quarantine. Those who have to undergo a home quarantine are required to wear a wristband provided by the authorised officer. However, on July 24, 2020, the compulsory quarantine at quarantine stations were enforced again, making home quarantine no longer an option. This is as provided under the Medical Attendance and Maintenance of Person Removed to Quarantine Station Regulation 2020 P.U. (A) 211. Any cost and expense incurred by a person required to be quarantined shall be borne by that person unless that person is with disabilities under the Persons with Disabilities Act 2008. Recovery of such payments are payable as a civil debt to the government. Non-compliance is an offence and upon conviction, offenders shall be liable to a fine of RM1000 or imprisonment not exceeding six months or both under P.U. (A) 212.

Table 6: Subsidiary legislations during MCO Phase 6 and effective dates

Subsidiary Legislation	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) (No. 4) Order 2020 P.U. (A) 146.	May 13, 2020, to June 9, 2020
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 - P.U.(A) 327/1993.	March 15, 1994
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 6) Regulations 2020 P.U. (A) 147.	May 13, 2020, to June 9, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 6) (Amendment) Regulations 2020 P.U. (A) 170.	May 23, 2020
	Note: Amendments were to allow prayers at places of worship subject to the direction of the Health director-general and to allow the number of passengers of private vehicles to limited to that regulated under the Road Transport Act 1987 [Act 333] and those staying in the same house.
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No.6) Regulations 2020 P.U. (A) 148.	May 13, 2020, to June 9, 2020

Source: Federal *e-gazette*, Attorney General's Chambers of Malaysia (July 27, 2020)

A total of 11 prohibited activities are listed in the Schedule of Regulation 3, including the organising of sports events and tournaments, contact sports, swimming pools except in private residences and private use, as well as training of national athletes, outbound travel from Malaysia by citizens and inbound travel for foreign tourists, activities in karaoke centres, playgrounds in shopping malls and family entertainment centres, pubs, using of fitting rooms, trying fashion accessories, reflexology and massages, cruise ship and any other activities that makes observing social distancing difficult.

On July 1, 2020, the government, via the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) Regulations 2020, lifted all the prohibited activities as listed in the schedule under Regulation 3 of the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) Regulations 2020, except on the organising of and involvement in

sport events and tournaments, contact sports, outbound tour activities for citizens and inbound activities for foreign tourists to Malaysia, except from countries specified by the minister (which are countries that have not yet been declared as infected areas at the time of writing), pubs and nightclub activities, except restaurant business at such premises, cruise ships and any crowd gathering that would make ensuring social distancing difficult. However, effective July 15, 2020, the prohibition on contact sports and cruise activities were lifted, while amendments were made on the organising of sport events and tournaments, with a new provision stating that sports involving spectators in attendance and foreign participants who are required to enter Malaysia are prohibited.

Starting June 27, 2020, the detection fee for COVID-19 tests is chargeable on citizens and foreigners under the Prevention and Control of Infectious Diseases (Fee for Coronavirus Disease 2019 (COVID-19) Detection Test) Regulations 2020.

Effective August 1, 2020, restricted movement within zones were enforced in Sarawak under the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) (No.4) Regulations 2020 P.U. (A) 222. This means free movement within a zone, but for inter-zone movements required prior written permission from the police. A zone refers to an area coded

“red”, “yellow” or “green” as categorised by the state’s Health director. Accordingly, the MOH defines districts with more than 40 local transmissions over a 14-day period as a red zone, while districts with one to 40 recorded cases are yellow zones, and those with no cases are green zones. The list of subsidiary legislations during Phase 7 of the MCO is listed in Table 7.

Table 7: Subsidiary legislations during MCO Phase 7 and effective dates

Subsidiary Legislation	Effective Date
Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) (No. 5) Order 2020 P.U. (A) 180.	June 10, 2020, to August 31, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) Regulations 2020 P.U. (A) 181.	June 10, 2020, to August 31, 2020
Prevention and Control of Infectious Diseases (Compounding of Offences) Regulations 1993 - P.U.(A) 327/1993.	March 15, 1994
Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No.7) Regulations 2020 P.U. (A) 182.	June 10, 2020, to August 31, 2020
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) Regulations 2020 P.U.(A) 195.	July 1, 2020, to August 31, 2020
Prevention and Control of Infectious Diseases (Fee for Coronavirus Disease 2019 (COVID-19) Detection Test) Regulations 2020 P.U.(A) 190.	June 17, 2020 Note: Detection fee for COVID-19 tests is chargeable on citizens and foreigners.
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) (No.2) Regulations 2020 P.U.(A) 203.	July 15, 2020 Note: The prohibition of sports activities was amended to “sports events and tournaments with spectators in attendance, and sports events and tournaments involving participants from overseas entering Malaysia”. The prohibited activities listed in Paragraph 2 on “contact sports” were deleted. Paragraph 10 on “cruise activities” was also deleted.

Prevention and Control of Infectious Diseases (Fee for Coronavirus Disease 2019 (COVID-19) Detection Test) (Amendment) Regulations 2020 P.U.(A) 220.	June 29, 2020	Note: Amendment to Paragraph 3(1) on payment of fee on detection tests for those instructed by an authorised officer.
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) (No.3) Regulations 2020 P.U.(A) 221.	July 29, 2020	Note: Rephrasing of the provision on Regulation 8.
Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) (No.4) Regulations 2020 P.U. (A) 222.	August 1, 2020	Note: Amendment to include control of movement order within the state of Sarawak from August 1 to 14, 2020. This means a person may freely move within a zone, but movements from one “zone” to another must obtain prior written permission from the police. Zone means “red”, “yellow” or “green” as categorised by the director of Health, Sarawak.
Prevention and Control of Infectious Diseases (Medical Attendance and Maintenance of Person Removed to Quarantine Station) Regulation 2020 P.U. (A) 211.	July 24, 2020	Note: Any cost and expenses charged or incurred of a person required to be quarantined shall be borne by that person unless the person is with disabilities under the Persons with Disabilities Act 2008. Recovery of such payments are payable as a civil debt to the government. Non-compliance is an offence and upon conviction shall be liable to a fine of RM1000 or imprisonment for a term not exceeding six months or both.

Prevention and Control of Infectious Diseases (Compounding of Offences) (Amendment) (No.8) Regulations 2020 P.U. (A) 212.

Note: To incorporate the offence under Prevention and Control of Infectious Diseases (Medical Attendance and maintenance of Person Removed to Quarantine Station) Regulation 2020 P.U. (A) 211.

Source: Federal *e-gazette*, Attorney General's Chambers of Malaysia (1st August 2020).

Due to the higher positive COVID-19 cases at some places in Malaysia, the government has also implemented the 'EMCO, such as in Kluang, Johor, after 61 positive COVID-19 cases were identified (The Star, 2020). Under the EMCO, residents of the area are restrained from leaving their homes before completing a 14-day quarantine and no visitor may enter the area, starting March 17, 2020.

While the law has been relaxed and conditions were approaching the recovery stage, a number of new cases emerged with new infection clusters, such as in Kedah and Perlis. These places have since been classified on an administrative basis as areas under "Targeted Enhanced MCO" (TEMCO). This means that persons from within the TEMCO areas are not allowed to move freely and the police will monitor and control the entry and exit points.

Room for Improvements

Act 342 and its subsidiaries have proven that the specific law is essential in the face of a health crisis as presently experienced by the whole world. However, there are rooms for improvement as necessitated by unfolding events. For example, when the MCO was first enforced, gazetted COVID-19 as an infectious disease was of utmost important. This was only conducted on June 10, 2020, under the First Schedule of Act 342. Non-compliance of Act 342 is an offence punishable under the law. Any offence under the law must be made known by way of a notification in the government gazette. However, COVID-19 was only gazetted as an

infectious disease under the First Schedule of Act 342 on June 10, 2020.

Another issue is the SOP implemented to complement Act 342 and its legislative subsidiaries. Although it is a legal requirement that one must comply with the law, the SOP per se is obviously not a law. Thus, there exist the issue of enforcement. Can the SOP be enforced? Since only laws are enforceable, can the public be charged and sent to prison for non-compliance with the SOP and for subsequent failure in paying the compound? It is thus recommended that the SOP be included by way of a notification in the gazette, perhaps under the direction from the director-general of Health. This can be implemented during Phase 7 as provided under paragraph 10 of P.U. (A) 181. The inclusion should provide a provisioning power to the Health director-general to issue directions as measures to prevent and control COVID-19.

The issue of enforcement as stated above also relates to the compulsory wearing of face masks at public places and crowd gatherings effective August 1, 2020 as announced by the senior minister. However, a browse in the Attorney General's Chambers *e-gazette* showed that no law has been gazetted to enforce the wearing of face masks. Instead, Paragraph 10 of P.U. (A) 181, which gives provisions to the Health Director General to issue directions, was used. The law for face masks has not been gazetted although the deputy minister of health had indicated otherwise (BERNAMA, 2020). It is thus a point of concern that needs to be

addressed for the purpose of enforcement and clarity. Additionally, the law should also be clear as to what constitutes “a public place” as it relates to the wearing of face masks.

Concluding Thoughts

The MCO is enforced in Malaysia by means of law. Legislations have been put in place to implement it. Although the MCO does not constitute a total lockdown, where some essential services are still allowed to operate and certain necessary movements are permitted, it has served its purpose in reducing the number of reported COVID-19 cases, slowing the pace of its spread.

Malaysia first implemented the MCO on March 18, 2020, due to the increasing number of reported cases. The subsequent declining trend of daily infections following its implementation indicated the success of the law in preventing the spread of COVID-19. In fact, during Phases 3 and 4 of the MCO, the number of recovered cases outnumbered the new ones. The implementation of MCO Phases 5 and 6 had been less stringent than MCO Phases 1, 2, 3 and 4. During Phase 4, most economic activities were allowed to operate. However, this flexibility had resulted in the rising number of new COVID-19 cases during the RMCO, which is also known as Phase 7. It was observed that when MCO enforcement was made less stringent and more flexible, the number of new cases began to increase. This observation provides indication that only through the implementation of the law can the spread of COVID-19 be effectively controlled due to motivated changes in the attitude of the people. Overall, this paper suggests that the instrument of law is necessary to manage the health crisis in Malaysia brought about by the COVID-19 pandemic as demonstrated by the implementation of Act 342 in successfully containing its spread.

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