



## PRESS RELEASE

### **NST Leader: Video Conferencing to hear cases?**

In response to the above article appearing in the New Straits Times dated 17 April 2020, I would like to make the following clarifications.

It is important to state that it is unrealistic and impossible for the Courts to operate in the usual way during the Covid-19 pandemic. Doing so will run the risk of jeopardising not only the health and safety of judges and lawyers, but also that of litigants, court staff including officers, clerks and other support staff.

First and foremost, the Malaysian Judiciary is mindful that the Courts are not listed as an essential service under the Schedule of the Prevention and Control of Infectious Disease (Measures Within the Infected Local Areas) Regulations 2020 ('**2020 Regulations**'). This is in contrast, to the judiciaries of other jurisdictions such as New Zealand, where the Courts are listed as an essential service.

That said, the Malaysian Judiciary recognises that the administration of justice cannot come to a grinding halt and that it needs to maintain continuous access to justice. For this reason, the Malaysian Judiciary is adapting to means of keeping its processes and services running despite the pandemic. Accordingly, to ensure continuous access to justice in the current circumstances, the Courts continue to operate albeit with a more limited scope. The necessary areas under the purview of the 2020 Regulations relate to the function of the Courts to provide the required support to prisons and the police which are both listed as essential services under the said Regulations.

Three (3) Administrative Letters have consecutively been issued by the Chief Registrar's Office to the relevant stakeholders as early as **17 March 2020**, **23 March 2020** and **10 April 2020** to regulate the administration of justice during the Movement Control Order (MCO). These measures are similar to those implemented by almost every other country around the world where online hearings, remote trials and the increased usage of technology are the only feasible and logical options.

In this regard, I emphasise that in maintaining law and order during the MCO, especially for criminal matters, the Courts still hear remand applications, fresh charges, miscellaneous criminal applications, revision of Subordinate Court decisions and still conduct regular case management. In addition, remand applications are also being conducted at police stations.

Even in civil cases, various High Courts and Subordinate Courts continue to hear urgent cases though they are not expressly required to do so under the 2020 Regulations. The Courts continue to carry out case management via email, e-Review and conduct online hearings. The e-Filing mechanism which has been in operation for nearly a decade and which enables the online filing of documents and cause papers continues to operate as usual for both civil and criminal cases. Documents filed through the system are processed as usual during the MCO period.

Judges and Judicial Officers have been working remotely from home and are contactable at all times to ensure that all the necessary cases which require urgent attention are dealt with swiftly. This can be illustrated from the Courts' statistics throughout Malaysia during the MCO as at 15 April 2020 as follows:

- a) Federal Court
  - i. Case Management by way of e-Review - **376 cases**
  - ii. Case Management by way of e-mail - **25 cases**

- b) Court of Appeal
  - i. Case Management by way of e-Review - **1813 cases**
  
- c) High Court
  - i. Civil Case Management by way of e-Review – **4093 cases**
  - ii. Civil Case Management and hearing (uncontested matters) by way of email – **2549 cases**
  - iii. Civil Hearing by way of video conferencing– **18 cases**
  - iv. Certificate of urgency by way of e-Review – **75 cases**
  - v. Certificate of urgency by way of video conferencing – **12 cases**
  - vi. Criminal Case Management by way of e-Review – **370 cases**
  
- d) for the Subordinate Courts, **2509 cases** have been heard by way of e-Review, **27 cases** have been heard by way of email exchanges and **7 cases** have been heard by way of video conferencing; and
  
- e) **111,183 documents** have been filed and processed via e-filing;

As regards the use of technology for online hearing, I find it necessary to stress that the Malaysian Judiciary is ready to conduct and has indeed conducted online hearing for civil cases with the consent of parties. In terms of ICT infrastructure, I would like to assure the public that the Court is equipped with the latest and secure online hearing tools. Additionally, the Malaysian Judiciary has taken steps to amend the relevant laws such as the Courts of Judicature Act 1964, Subordinate Courts Act 1948, Rules of the Federal Court 1995, Rules of the Court of Appeal 1994 and Rules of Court 2012 to give effect to the conduct of online hearings.

Pending the said amendments, the Malaysian Judiciary has drafted a Practice Direction on the conduct of court proceedings via online hearings which has been circulated to the stakeholders for their consideration and feedback. The Malaysian Judiciary is ready to implement the measures it proposes to ensure continuous access to justice to all

Malaysians but it cannot do so until and unless there is adequate feedback from the stakeholders. I accordingly await the necessary feedbacks from all the stakeholders.

In the prevailing circumstances, it is a misstatement that the Courts are not operating during the MCO and hence creating backlog and inefficiency in dispensing justice to the public. The specific measures taken by the Malaysian Judiciary indicate that it remains ever committed to modern technological advancement. The measures taken will require judges, officers and practitioners some time to adjust but are necessary to ensure that continued access to justice is not brought to a standstill. It is hoped that all stakeholders will continue to lend their unrelenting support and continue to cooperate and remain steadfast in adopting the available technologies.

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**Dated: 17 April 2020**