

For discussion only

BUSINESS CONTINUITY IN THE MIDST OF COVID 19 PANDEMY



13 April 2020

COVID-19 REGULATORY UPDATE

Government has enacted several regulations to support business continuity due to COVID-19 outbreak:

Topics	Regulations	Description
Economy, Incentives, and Taxes	MOF Regulation No. 19/PMK.07/2020	the Use of Profit-Sharing Funds, General Allocation Funds, and Regional Incentives Funds
	POJK No. 11/POJK.03/2020	National Economic Stimulus as a Countercyclical Policy to Respond to the Spread of Coronavirus Disease
	MOF Regulation No. 23/PMK.03/2020	Tax Incentives for Industries who are affected by the Covid-19
	POJK No. 12/POJK.03/2020	Consolidation of Commercial Banks aims to prevent a potential decline in the banking sector by strengthening the structure of bank ownership and increasing the minimum capital limit for banks as well as the minimum threshold for Capital Equivalency Maintained Assets
	Government Regulation in Lieu of Law No.1 of 2020	State Financial Policy and Financial System Stability to Combat the Pandemic of Corona Virus Disease 2019 (COVID-19)
Capital Market	IDX's Board of Directors Decree No. KEP-00024/BEI/03-2020	Guidelines in Handling Trade Continuity on the IDX During Emergency
	IDX's Board of Directors Decree No. KEP-00025/BEI/03-2020	New limits for auto rejection applicable to the stock trading on the IDX
Construction	Minister of PUPR Regulation No. 02/IN/M/2020	Prevention Protocol of COVID-19 in Implementation of Construction Services

COVID-19 REGULATORY UPDATE

Topics	Regulations	Description
Logistics and Transportation	Government Regulation No. 21 of 2020	Large-Scale Social Restrictions to Accelerate the Handling of COVID-19
	MOH Regulation No. 09 of 2020	Guidelines for implementation of the Large-Scale Social Restriction Policy
	BPTJ Regulation No. SE.5.BPTJ of 2020	Limitations of the Use of Transportation Mode to Reduce Movement of People from and to the Region of Jakarta, Bogor, Depok, Tangerang, and Bekasi during Corona Virus Disease 2019
Industry	MOI's circular letter No. B/312/M-IND/IND/IV/2020	Implementation of Industrial Activities in the Emergency Response of COVID-19 Pandemic
	MOI's circular letter No. B/313/M-IND/IND/IV/2020	Supporting Implementation of Industrial Business Activities in the Region
	MOI's circular letter No. 4 of 2020	Standard Operational Procedure for Factories during the COVID-19 Pandemic
	MOI's circular letter No. 7 of 2020	Guidelines for Submitting Applications for Licenses for the Implementation of Industrial Activities during Corona Virus Disease 2019 Public Health Emergency
Healthcare & Medical Devices Supply	MOT Regulation 23/2020	Temporary Prohibition on Export of Antiseptics, Mask Raw Materials, Personal Protective Equipment, and Masks
	Presidential Decree No. 11 of 2020	Determination of Public Health Emergency of COVID-19
Labor	MoM's Circular Letter No. M/3/HK.01/III/2020	Employee Protection and Business Continuity in the Context of Prevention and Control of COVID-19

LARGE SCALE SOCIAL RESTRICTION DUE TO COVID-19

Government Regulation No. 21 of 2020 Regarding Large Scale Social Restriction in Acceleration of Corona Virus 2019 Handling (COVID-19) (effective March 31st, 2020)
 Regulation of the Governor of Capital Special Region of Jakarta No. 33 of 2020 Regarding Implementation of Large-Scale Social Restrictions (PSBB) in Handling COVID-19 in DKI Jakarta Province (effective April 10th, 2020)



Public Places and Facilities

- ❌ Public facilities and amusements are close
- ✅ Supermarkets, minimarkets, markets, shops, laundry



Working Place

- ❌ Working places are close (work-from-home)
- ✅ Health service, food & beverage, energy, construction, economy, finance, communication, strategic industry, logistics distribution, hotel, and daily needs



Social and culture

- ❌ Political, sports, entertainment, academic, and cultural meeting or gathering are canceled



Public Transports

Maximum passenger are 50% with operational hours from 6.00 am to 18.00 pm

Company's leader who temporary close his/her office shall:

- a. keep the continuity of services and/or business activities;
- b. maintain employee productivity or performance;
- c. prevent the spread of COVID-19 in the office and its environment;
- d. maintain the security of the location and the environment around the office; and
- e. provide protection to workers who are exposed to (COVID-19 in accordance with statutory provisions.

Bogor, Depok, Tangerang Raya (Banten), and Bekasi are also determined as PSBB. Currently those areas are waiting for Governor/ Head of Region Decree regarding large scale social restriction (PSBB) implementation.

RECOMMENDATION



CORPORATION

1. **Lending and/or Financing**
 - OJK needs to oblige the bank to implement this lending and/or financing policy and specify in detail the criteria for companies or SMEs which are eligible to receive loans and/or financing from banks
2. **Grants in the Form of Direct Cash Assistance**
 - Government shall allocate national funds for grants in the form of direct cash assistance to small companies who have incurred losses due to COVID-19 outbreak and specify in detail the criteria of small companies who are eligible to receive direct cash assistance
3. **Implementation of Tax Relaxation Policy**
 - Government shall enact the implementing regulation of PERPU 1/2020
 - Grant tax exemption shall be applied to grant recipient companies and tax deductible shall be applied to grant giving companies
4. **Limitation of Indonesian Airports and Ports Operational Activities**
 - Government shall stipulate that airports and ports located in the PSBB area to remain open and operate to ensure the availability of basic needs and health needs, while taking into account local and international provisions.
5. **Free Internet**
 - Government shall propose the use of Universal Service Obligation and/or other non-tax revenue as compensation for telecommunication operators who are required to provide free internet services for public services and the operation of critical infrastructure.
6. **Responsive and Reachable Consultation and Licensing Services**
 - Ministries and other government agencies shall implement the same policy, which is to provide services via telephone, chat applications, and other online social media with adequate quality and quantity of resources
 - Government shall establish one-stop services platform for licensing services related to hospitals and health services as well as licensing related to import and distribution of medical devices in relation to COVID-19.

LABOR REGULATION

March 17, 2020

Minister of Manpower Circular Letter No. M/3/HK.04/III/2020 on Employee Protection and Business Continuity in the Context of Prevention and Control of COVID-19



Instructed the Governors in Indonesia to: (i) implement measures to prevent and manage matters related to COVID-19 on the work environment; and (ii) ensure the continuity of salary payment for the employees who have been infected with COVID-19 in their respective provinces of Indonesia.



LABOR

FORCE MAJEURE



LABOR

1

Elements to determine Force Majeure:

- a. Article 1244 and Article 1245 Civil Code: unforeseeable event and uncontrollable circumstances of the parties
- b. Law No. 18 Year 1999 regarding Construction Services: beyond the will and power (uncontrollable)

2

Since the Indonesian Government has issued regulations with respect to the implication of COVID-19 pandemic as an event of public health emergency, any **private contractual relationships in Indonesia fits to “force majeure”**, including but not limited to the employment contractual matters

3

Force majeure event may provide relaxation on labor related matters, for instance postponing the payment of holiday allowance (THR) **subject to the consent of the Employee**

4

The holder of *Stay Permit (Izin Tinggal Kunjungan)* or Limited Stay Permit (*Izin Tinggal Terbatas*) will be automatically granted a Force Stay Permit (*Izin Tinggal Keadaan Terpaksa*) in accordance with MoLHR No.11/2020

BUSINESS SUSTAINABILITY?

- What can companies do if the Covid-19 outbreak ends on early June?
- What can companies do if the Covid-19 still continue to spread after June?
- What is the company's recovery plan after Covid-19 outbreak ends?



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THANK YOU

For further information, please feel free to contact us:

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