

Government Measures in Employment Sector in Response to the COVID-19 Pandemic in Indonesia

The Indonesian Ministry of Manpower (“**MOM**”) and some other Ministries have issued a number of regulations and policies or guidelines to manage and control the impact of the spread of COVID-19 in the Indonesian employment sector. Please find below a summary of the government measures:

I. Employers are encouraged to prepare plans to take preventive measures against the further spread of COVID-19 and to maintain the continuity of their businesses.

The MOM instructs employers, among other things, to:

1. comply with regulations relating to employee health examinations, under which certain employers must conduct annual medical examinations for their employees and can conduct a special medical examination for an employee who displays certain symptoms that require special medical attention;
2. communicate with employees on preventing COVID-19 from spreading, including by instructing employees to maintain a healthy work environment, regularly wash their hands, wear a mask and ask for medical attention immediately if they suffer from coronavirus symptoms; and
3. communicate with employees on the existence of coronavirus cases and the employer's policy on preventing COVID-19 spreading to the workplace.

II. Wage protection

Employers are being encouraged to provide their employees the following wage protection in relation to the COVID-19 pandemic:

1. the wages of employees who are categorized as Persons Under Observation (*Orang Dalam Pemantauan* - ODP) related to COVID-19 according to a doctor's statement causing them to be unable to go to work for up to 14 days or according to the standards of the Ministry of Health are to be paid in full;
2. the wages of employees who are categorized as suspected COVID-19 cases and are quarantined/isolated according to a doctor's statement are to be paid in full during the quarantine/isolation period;

3. the wages of employees who cannot come to work because they are infected with COVID-19 proven by a doctor's statement, are to be paid according to the prevailing laws and regulations. Under the Manpower Law, the salary to be paid to a sick employee is the following:
 - a. for the first 4 months, 100% of the salary;
 - b. for the second 4 months, 75% of the salary;
 - c. for the third 4 months, 50% of the salary; and
 - d. for further months, 25% of the salary before the employer terminates his/her employment.

After 12 months of prolonged illness, the employer can terminate the employee and pay him/her a severance package; and

4. if employers limit their business activities due to regional government policies on the prevention and control of COVID-19, causing some or all of their employees to not go to work, while taking into account business continuity, any changes to the amount or method of payment of their wages require an agreement between the employer and the employees.

III. Large Scale Social Restrictions (*Pembatasan Sosial Berskala Besar*, “PSBB”)

The Minister of Health has issued guidelines under Regulation No. 9 of 2020 on Guidance on PSBB. To impose PSBB in a province/regency/municipality, the following criteria must be met: (a) the number of cases or number of deaths from COVID-19 must have increased and spread significantly and rapidly into several areas, and (b) an epidemiologist must have advised that they be imposed in other areas or countries in the same situation. PSBB in certain provinces and regencies/municipalities in Indonesia have been applied, among others, in DKI Jakarta province, Tangerang, Bogor and Bekasi Regency and Municipality.

Under a Governor of DKI Jakarta Regulation and Decree, certain restrictions on activities outside of the house in DKI Jakarta now apply, including among others, work activities are to be done at home (*Work From Home*). However, this restriction does not apply to employees in certain offices such as government offices, state-owned enterprises involved in the management of the COVID-19 pandemic and those businesses engaged in the health, food, finance, logistics, hotel and construction industries. Violations of the implementation of PSBB may be subject to sanctions, among others, written warning, social work, temporary suspension of activities, administrative fines, and criminal sanction. PSBB in DKI Jakarta province came into effect on 10 April 2020 and currently the period is extended until 4 June 2020.

IV. Religious Holiday Allowance (*Tunjangan Hari Raya*, “THR”)

The MOM has issued a circular letter regarding the provision of the 2020 THR during the COVID-19 pandemic which states, among other things:

1. employers should pay their employees the THR according to the prevailing regulations;
2. if an employer is unable to pay the THR, the employer and employee should find a solution through dialogue based on transparent internal company financial statements and good faith and agree on the following, among other things:
 - a. if an employer is unable to pay the THR in full at the time specified in the regulations, the THR can be paid in stages;
 - b. if an employer is unable to pay the THR at all at the time specified in the regulations, payment of the THR can be postponed until a time they agree to; and
 - c. when and how a fine for late payment of the THR will be paid.

The employer must submit the agreement between the employer and the employees to the local Manpower office. This agreement will not eliminate the employer’s obligation to pay the THR and fine to the employees as required under the regulations, and they must be paid in 2020.

V. Utilization of Foreign Manpower

The MOM has also announced in a circular letter and its official website that, to prevent the spread of COVID-19:

1. All employers must submit a report on:
 - a. foreign employees whose stay permits are still valid, categorized according to their respective countries of origin;
 - b. the number of foreign employees whose stay permits are still valid who are currently outside Indonesia but cannot return to Indonesia due to a ban on flights to Indonesia;
 - c. the number of foreign employees, in particular those from mainland China, present in Indonesia under the short term foreign manpower utilization plan, whose stay permits have expired but who cannot return to their home country; and
 - d. the efforts made to prevent the spread of COVID-19 in the organization.

The employer must submit this data using a form provided by the MOM and must upload it to the MOM’s online system.

2. The licensing service for new applications for the utilization of foreign manpower has been suspended, except for applications for:
 - a. foreign manpower who will work on national strategic projects in accordance with the prevailing laws; and
 - b. holders of stay permits who are still in Indonesia.
3. Extensions of permits to employ foreign manpower employed under either short term or long term contracts and who are still in Indonesia, but cannot return to their home countries because of the border closing policy, can be applied for. However, under the Ministry of Law and Human Rights Regulation No. 11 of 2020, foreigners whose stay permits (including Limited Stay Permit which are granted to foreign employees who work in Indonesia) have expired or cannot be extended, will be granted with emergency stay permits without applying for such permits to the immigration offices.

As shown above, the Indonesian government has implemented various measures in dealing with employment issues amid the COVID-19 pandemic so that, first, employers can still maintain the continuity of their businesses even though they are encouraged to limit their business activities due to government policies and, secondly, employees can still receive wages and benefits and do not lose their jobs, unless an agreement has been reached regarding salary deductions or employment termination. Nevertheless, employers do need to keep abreast of any changes or updates in Indonesia as the situation may change very quickly as and when the Indonesian government issues new or amended policies and regulations, including those related to employment, which can affect day-to-day operations of Indonesian businesses.

MORE INFORMATION



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