

## Client Alert

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## FAQs: Large Scale Social Restriction Measures - Guidelines for Supply Chain

### Recent Developments

On 31 March, President Joko Widodo declared a Public Health Emergency Status (*Kedaruratan Kesehatan Masyarakat*). The government decided to implement Large Scale Social Restrictions (*Pembatasan Sosial Berskala Besar* - "**PSBB**") as a response to the Public Health Emergency Status.

On 3 April, the Minister of Health issued Regulation No. 9 of 2020 on Large Scale Social Restriction Guidelines in Acceleration of Handling of Corona Virus Disease (Covid-19) (*Pedoman Pembatasan Sosial Berskala Besar Dalam Rangka Percepatan Penanganan Corona Virus Disease 2019*) ("**Reg 9**").

Further, on 7 April, Ministry of Health issued Ministerial Decree No. HK.01/MENKES/234/2020 on the Stipulation of Large Scale Social Restriction in DKI Jakarta Province in Regard to the Acceleration of Handling of Corona Virus Disease ("**Decree**").

Under the Decree, MOH stipulates that as a response to the Public Health Emergency Status, DKI Jakarta is now enforcing PSBB on 10 April. The enforcement of PSBB will be applicable for the longest incubation period, i.e., 14 days and may be extended if there are still proof of the spreading of COVID-19.

### Brief Summary

Under Reg 9, PSBB is defined as restriction of certain activities of citizens in an area that is suspected of being infected with a disease and/or contaminated to prevent the possibility of the spreading of Corona Virus Disease (Covid-19).

PSBB involves:

- a. dismissal of schools and workplaces
- b. restrictions on religious activities
- c. restrictions on activities in public places or facilities
- d. restrictions on social and cultural activities
- e. restrictions on modes of transportation
- f. restrictions on other activities, especially activities related to defense and security aspects



Reg 9 sets out the details of the restrictions, i.e., the specific places and modes of transportation that are exempted from the restrictions.

## Frequently Asked Questions

### 1. Is PSBB similar to Quarantine?

PSBB is different with Quarantine. There are several types of Quarantine set out by Law No. 6 of 2018 on Health Quarantine ("**Law No. 6/2018**"), which are as follows:

- a. House Quarantine
- b. Hospital Quarantine
- c. **Territorial Quarantine** (this is the most frequently discussed type of quarantine)

Law No. 6/2018 defines territorial quarantine as a population restriction in an area including an entrance to the area that are suspected to be infected with a disease and/or contaminated to prevent the spreading of the disease or contamination.

During a territorial quarantine, the central government is responsible to provide for the basic living needs of the people and animals in the quarantined areas.

### 2. What specific business sectors are still allowed to operate during PSBB?

Under Reg 9, workplaces that are still allowed to operate are workplaces that provides services related to defense and security, public order, basic food supplies, oil fuel and gas, health services, economy, financial sector, communication, industry (please refer to "**Exempted Industries**" below for the specific industries that are still allowed to operate), export and import, distribution, logistics, and other basic needs.

Exempted Industries among others include:

- a. essential commodity products, including medicines, pharmacy, medical/health equipment, household health supplies, raw materials and intermediates.
- b. production unit, that needs further process, after obtaining relevant license from Ministry of Industry
- c. oil and gas production, coal and minerals and activities related to mining operations
- d. manufacturing unit for packaging materials for food, medicine, pharmaceuticals and medical devices
- e. staple and horticultural farming activities



- f. export goods production unit
- g. unit of production of agricultural goods, plantations, as well as the production of micro, small and medium businesses

Moreover, public places that are exempted from being restricted ("**Exempted Places**") include:

- a. supermarkets, minimarkets, markets, shops or places to sell medicine and household health supplies (*peralatan medis kebutuhan pangan*), basic goods, essential goods, fuel oil, gas and energy
- b. health service facilities or other facilities to fulfill health services
- c. hotel, homestay and motel to accommodate tourists and people affected by COVID-19, medical and emergency staff, air and sea crew
- d. company used/intended for quarantine facilities
- e. public places or facilities to fulfill the basic needs of citizens, including sports activities

### **3. Will there be closure of roads in regard to the execution of PSBB?**

Reg 9 stipulates that the restriction of modes of transportation will **not** include road closure, but will limit the number of passengers in public and private transportation. This means domestic supply chain can still be done limited to those exempted as detailed above.

### **4. Will PSBB affect a company's supply chain, i.e., will PSBB hamper trading, import and export activities?**

As mentioned above, the execution of PSBB includes dismissing workplaces. Due to that, there will be impacts for companies during the PSBB period.

#### **Dismissal of Workplace**

In theory, the dismissal of workplace that is not included as Exempted Industry and Places under Reg 9. However, they may be subject to difficulties in trading, and in importing and exporting their goods due to the lack of resource.

#### **Exempted Companies**

Reg 9 stipulates the details of the workplaces that still may operate. However, due to this outbreak, relevant ministries issued regulations on the prohibition of exports, i.e., the Ministry of Trade issued a regulation regarding temporary export restriction for antiseptic, raw materials of masks, personal protective equipment, and masks.

Companies that produce antiseptic, raw materials of masks, personal protective equipment, and masks are included in Exempted Companies and will be able to operate normally.



However, the export prohibition might hamper the export activities of the companies and might impact their global supply chains.

Therefore, yes, PSBB may affect a company's supply chain depending its functions in a larger supply chain system.

## 5. Does Reg 9 stipulate about product distribution?

Reg 9 does not specifically regulate about distribution of goods. However, workplaces in the distribution services sector are included as workplaces that are allowed to operate. So, in theory, some local distribution can still operates.

## 6. What are the sanctions for not complying with Reg 9?

Reg 9 does not provide any sanction for not complying with PSBB.

However, Article 93 of Law No. 6/2018 states that "every person that does not comply with the implementation of Health Quarantine as referred to in article 9(1) *and/or prevent the implementation of Health Quarantine that causes Public Health Emergency is sanctioned to a maximum of one year imprisonment and/or maximum sanction or IDR 100 million*".

Article 9(1) of Law No. 6/2018 states that "each person must comply with the implementation of Health Quarantine".

Further, under Law No. 6/2018, the definition of Health Quarantine is a measure to prevent and avoid the entry of disease and/or public health risk factors that could potentially cause Public Health Emergency.

As mentioned above, President Jokowi declared Public Health Emergency Status for Indonesia. The response chose by the government is to implement PSBB. Therefore, based on the above, one can argue even though there is no sanction in Reg 9, Law No. 6/2018 stipulates the sanction of not complying with PSBB.

Further, for a wider perspective, Article 212 of Indonesian Criminal Code ("ICC") states that *anyone who challenge or resists against official who are carrying out legal duties is subject to a maximum of one year and four months imprisonment or a maximum fine of four thousand five hundred rupiah*.

If the act stated above is conducted by a group consisting of 2 people or more, they may be subject to a maximum of seven years imprisonment. Therefore, one can also argue that people who does not comply with Reg 9 may be subject to sanctions under ICC provided that all elements are proven to be fulfilled. Currently, it is unclear whether the Indonesian government will take the option or the approach to use these ICC provisions.

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