

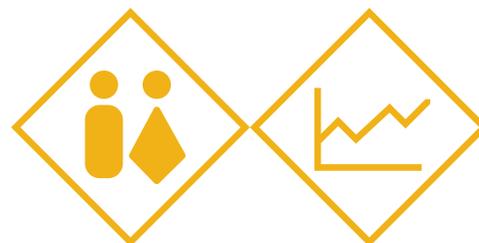
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**BetterWork**  
Indonesia

# Workers' Protection and Business Continuity Amid the Covid-19 Pandemic

Collection of  
Applicable Circulars and FAQs



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In response to the COVID-19 pandemic, the Indonesian Government has issued several regulations, often in the form of official circulars. These regulations aim to mitigate the impact of Covid-19 on business continuity as well as protect the safety and basic rights of workers in Indonesia.

This document, the “*Workers’ protection and business continuity amid the COVID-19 Pandemic – collection of applicable circulars and FAQs*” aims to provide clarity on the applicable Labour laws and regulations during the COVID-19 pandemic. These guidelines were developed based on a range of official national, sub-national and international sources (for the full list see Annex 1). It also includes recommendations from the ILO/ IFC Better Work Indonesia (BWI) programme on minimizing the impact of COVID-19 disruption in the export-oriented garment sector and protecting the basic rights of workers. The guidelines take the form of FAQs to ease comprehension and will be updated regularly as new government instructions and advice evolves.



# Frequently Asked Questions on Workers' Protection and Business Continuity

The impact of Covid-19 on business continuity and the world of work in Indonesia, particularly in the export-oriented garment sectors, has raised questions on the implementation of labour norms, especially regarding business operations and wages. BWI understands the magnitude of the challenges faced by companies in operating under these circumstances. Yet, even in a crisis, responses should ensure respect for fundamental principles and rights at work<sup>1</sup>. To meet these challenges, BWI recommends the strengthening of social dialogue to find the best possible options and a common commitment to put in place difficult but necessary measures<sup>2</sup>.



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## 1. What should happen in terms of applicable wages in situations where companies are limiting business activities to prevent the transmission of, and handle the response to, Covid-19?

Point 4 of Circular Letter of MoM No. M/3/HK.04/III/2020 opens the possibility for companies forced to restrict business activities due to COVID-19, and their workers to enter into a dialogue and reach agreements concerning reduced wages during the pandemic.

BWI suggests that dialogue at the company level includes representation of all elements in the company i.e.: management, representatives of trade union and non-unionized workers. In addition, BWI also recommends that:

- The agreement is made based on the actual situation and condition of the company and that there is full transparency over the companies' financial information and data;
- The agreement is made in good faith and in full responsibility and takes into account the rights, obligations and interests of the parties, business continuity and workers' welfare;
- All agreements made between employers and workers are submitted to the local manpower office.

In addition, based on the discussions between Better Work Indonesia and the Indonesian Ministry of Manpower, in situations where employers and workers meet obstacles or difficulties in reaching an agreement regarding limiting business activities, the parties may submit requests for facilitation assistance to the local manpower office.

Another suggested option is to seek an agreement with workers to take collective leave by deducting, where possible, from the workers' annual leave entitlement. This may avoid any deduction of workers' wages and lay-offs.<sup>3</sup> However, employers should not unilaterally require workers to undertake annual leave. This option and the timing of holidays is to be determined by employers after consultation with workers.

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## 2. How long is the validity of this agreement?

The agreed duration of the business limitation and its impact on wages due to the Covid-19 pandemic should not be longer than the duration of the national disaster emergency as established by the government.



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### 3. Can a company implement “No Work No Pay” in this situation?

Circular Letter of MoM No. M/3/HK.04/III/2020 does not expressly prohibits companies to apply a “no work no pay” scheme. Nonetheless, the circular (section II. 4) refers to the possibility of “changes in the rate and method of payment” in what is, in BWI view, an indication that wages can be re-negotiated but not halted altogether.

It is therefore advised that all companies, during their dialogue with workers, avoid “no-work no-pay” during the stoppage. This will ensure workers can fulfil their basic needs during the crisis. This advice should also be seen in the framework of a strong national effort to mitigate the health and economic impact of the COVID-19 pandemic.

Better Work Indonesia also recommends that factories and workers seek support from the local manpower office when negotiating the amount of wages to be applied during this exceptional period.

The International Organization Of Employers (IOE) and the International Trade Union Confederation (ITUC) joint statement on dealing with the severe challenges of the Covid Pandemic emphasizes that, “...all efforts need to be made to help workers and companies through this crisis, to keep workers in their employment, to protect them from unemployment and loss of income, and to reduce the financial collapse<sup>4</sup>.”

Lastly, BWI recommends companies actively communicate with local governments about the assistance schemes provided to workers and employers during the Covid-19 pandemic crisis. Examples include:

- a. The Pre-Employment Card, the legal basis for this pre-employment card is the President of the Republic of Indonesia Regulation No. 36 of 2020 concerning the strengthening of employment competency through the Employment Card Program. Information about this pre-employment card can also be viewed on the Ministry of Manpower's official page at the following link: <https://prakerja.kemnaker.go.id/>
  - b. The policy on tax relief granted to workers in the manufacturing sector. Information regarding this policy can be viewed on the official page of the Ministry of Finance of the Republic of Indonesia at the following link: <https://www.kemenkeu.go.id/publikasi/siaran-pers/siaran-pers-kementerian-keuangan-berikan-empat-insentif-terkait-perpajakan-bagi-usaha-terdampak-corona/>
  - c. Policies on credit relaxation, information related to these policies can be seen on the OJK official page at the following link: <https://www.ojk.go.id/id/berita-dan-kegiatan/info-terkini/Pages/-FAQ-Restrukturisasi-Kredit-atau-Pembiayaan-terkait-Dampak-COVID-19.aspx>
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## 4. Are companies still required to provide Annual Festive Bonus (THR) during the pandemic?

In an official statement made by The Minister of Manpower of the Republic of Indonesia stated that the obligation to pay or provide THR is maintained. The Minister also stated that if a company has difficulties in paying THR to workers due to the Covid 19 pandemic, the dialogue mechanism may be used to agree on the method and period of THR payment<sup>5</sup>.

At the same time, BWI recommends companies to provide THR in the full amount to workers during the pandemic by referring to the Government Regulation concerning Wages<sup>6</sup>; the Minister of Manpower of the Republic of Indonesia Regulation regarding allowance for religious holidays for Workers/Laborers in the Company<sup>7</sup> and the Minister of Manpower of the Republic of Indonesia Regulation Number concerning procedures for imposing administrative sanctions<sup>8</sup>.

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## 5. What is the wages arrangement for workers who are in the under surveillance, suspect and positive Covid-19 status?

The Ministry of Manpower Circular Letter No. M/3/HK.04/III/2020 concerning the *Protection of Workers/Laborers and Business Continuity in the Prevention and Management of Covid-19* mentions that the wages of workers who are unable to attend work due to COVID-19 illness should be paid in accordance with laws and regulations<sup>9</sup>.

In addition to the wages, when a worker of the company is declared as a confirmed COVID-19 patient, BWI encourages the company to ensure that the concerned worker is protected from discriminatory treatment in the workplace related to her or his health status<sup>10</sup>.

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## 6. Can the company carry out mass layoffs/employment termination as a result of the impact of Covid-19 pandemic?

Regardless of the crisis, BWI always recommends companies to avoid employment termination to both permanent (PKWTT) and non-permanent workers (PKWT). BWI considers that mass termination is a last resort. Besides the human cost and personal loss of income, employment termination will jeopardize economic recovery as factories will need to re-employ workers later and cause further delays in production. It will also affect national consumption and require an additional effort by the Indonesian government in providing support to unemployed workers, potentially leading to prolonged economic impact.

In this situation, please refer to Minister of Manpower and Transmigration Circular Letter Number SE-907/MEN/PHI-PPHI/X/2004 concerning the *Prevention of Mass Employment Termination*.

In a situation where all efforts have been made, but employment termination is unavoidable, it is recommended that companies refer to the Manpower Law No. 13/2003 CHAPTER XII concerning *Termination of Employment* to ensure the fulfillment of the rights and obligations of each party as mandated in the Manpower Law.

BWI also recommends companies to consult with their local manpower office to better comply with the above Circular letter in dealing with the impact of the COVID-19 pandemic<sup>11</sup>.

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## 7. What is the compensation arrangement of workers with PKWT status when the termination occurs before the PKWT ends?

The compensation arrangement, in this case, should refer to Manpower Law No. 13 of 2003 CHAPTER IX concerning Employment Relations and Ministerial Decree No. 100 of 2004, concerning *Provisions on the Implementation of Work Agreements with Specified Period of Time (PKWT)*.

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## 8. What should a company do if it cannot continue its business activities permanently due to Covid-19 pandemic?

If due to the impact of the Covid-19 pandemic, companies cannot continue their business activities, companies are advised to follow the procedures and stages stipulated in Law Number 7 of 1981 concerning *Obligatory Employment Reporting in the Company*.





## Annex 1 - Sources used for the development of this guide

The FAQs were developed with a range of sources including, but not limited to the Ministry of Manpower Circular Letter No. M/3/HK.04/III/2020 *Protection of Workers/Laborers and Business Continuity in the Prevention and management of Covid-19*; BWI official communications with Ministry of Manpower Office; circulars from local governments; documents of ILO Standards concerning COVID-19 (coronavirus), Key Provisions of the International Labour Standards relevant to the evolving COVID-19 Outbreak, ILO NORMES, 23 March 2020, version 1.2, and the Joint Statement on Covid-19 by the International Organization of Employers (IOE) and the International Trade Union Confederations (ITUC). The referred circulars although addressed to the provincial governors by the central government can and should be used by factories as useful guidance on facing the health and labour aspects of the COVID-19 epidemic.

The constantly changing nature of the current situation means that new circulars and administrative guidance may be developed and issued by the Indonesian government. Therefore, these guidelines will be regularly updated.

# Overview of Regulations and Administrative Guidance

The following table gathers the relevant regulations and administrative products issued by both the national and provincial level to date:

NO	CIRCULAR LETTER/ DECREE/APPEAL	ISSUED BY	DATE OF ISSUANCE	SUMMARY OF KEY POINTS
1	Ministry of Manpower Circular Letter No. M/3/HK.04/III/2020 concerning Protection of Workers/Laborers and Business Continuity in the Prevention and management of Covid-19	Ministry of Manpower	17 Mar 20	<p>Governors are requested to:</p> <ol style="list-style-type: none"> <li>I. Seeking to Prevent the Spread and Handling of Cases Related to COVID-19 in the Work Environment by:               <ol style="list-style-type: none"> <li>1. Providing guidance and supervision for the implementation of laws and regulations on Occupational Safety and Health (OSH).</li> <li>2. Disseminating information to all levels of the organization and related parties within your area of guidance and supervision.</li> <li>3. Recording and reporting to the relevant agencies each COVID-19 case or alleged case at workplaces.</li> <li>4. Instructing each Company management to anticipate the spread of COVID-19 to workers/laborers by taking 'preventive measures such as clean and healthy living behaviour by integrating the OSH program, empowering the Committee for Occupational Safety and Health (P2K3) and optimizing the function of occupational health services.</li> <li>5. Encouraging all Companies to immediately prepare emergency plans in the face of the COVID-19 pandemic to minimize the risk of transmission at work and maintain business continuity.</li> </ol> </li> </ol>

NO	CIRCULAR LETTER/ DECREE/APEAL	ISSUED BY	DATE OF ISSUANCE	SUMMARY OF KEY POINTS
				<ul style="list-style-type: none"> <li>6. Encouraging all Companies to immediately prepare emergency plans in the face of the COVID-19 pandemic to minimize the risk of transmission at work and maintain business continuity.</li> <li>7. If there are workers/laborers or entrepreneurs who are at risk, suspected or experiencing illness due to COVID-19, measures are taken in accordance with health standards issued by the Ministry of Health.</li> </ul> <p>II. Implementing Wage Protection for Workers/Laborers related to the COVID-19 Pandemic.</p> <ul style="list-style-type: none"> <li>1. For workers/laborers who are categorized as Monitored Persons (ODP) related to COVID-19 based on the doctor's statement, they cannot come to work for a maximum of 14 (fourteen) days or according to Ministry of Health standards, their wages are paid in full.</li> <li>2. For workers/laborers who are categorized as COVID-19 suspected cases and are quarantined/isolated according to a doctor's statement, the wages will be paid in full during the quarantine/isolation period.</li> <li>3. For workers/laborers who do not come to work due to COVID-19 sickness as proved by the doctor's statement, the wages are paid according to laws and regulations.</li> <li>4. For companies that restrict business activities due to government policies in their respective regions for the prevention and control of COVID-19, causing some or all of their workers/laborers not to come to work, taking into account business continuity, changes in the rate and method of payment of their workers'/laborers' wages are determined under the agreement between the employer and the workers/laborers.</li> </ul>

NO	CIRCULAR LETTER/ DECREE/APEAL	ISSUED BY	DATE OF ISSUANCE	SUMMARY OF KEY POINTS
2	The Governor of the Special Capital Region of Jakarta Appeal Number 6 of 2020 Concerning the Temporary Closure of Office Activities In Preventing The Spread Of The Outbreak Of Covid-19	The Governor of the Special Capital Region of Jakarta	20 Mar 20	<ol style="list-style-type: none"> <li>1. Temporarily stopping all office activities, closing operating facilities, and doing business activities from home.</li> <li>2. For companies that cannot stop their office activities totally, they are asked to reduce their activities to a minimum (number of employees, time of activities, and operating facilities).</li> <li>3. Paying attention to the Minister of Manpower Circular Letter No. M/3/HK.04/III/2020 concerning the Protection of Workers/Laborers and Business Continuity in The Prevention and Tackling of COVID-19.</li> <li>4. This appeal is valid for 14 days from 23 March 2020 to 5 April 2020.</li> <li>5. The information sources regarding: <ol style="list-style-type: none"> <li>a. the spread of COVID-19 can be seen through the site: <a href="https://corona.jakarta.go.id">https://corona.jakarta.go.id</a>.</li> <li>b. guidance on dealing with COVID-19 (posters, banner stands, etc.) can be downloaded via the link: <a href="https://bit.ly/PublikasiCoronaDKI">https://bit.ly/PublikasiCoronaDKI</a>.</li> </ol> </li> </ol>
3	Central Java Governor Circular Letter Number 443.5 / 006364 Concerning Limitation of Number of Employees and Business Activities In the Control Of The Spread Of Covid-19			<ol style="list-style-type: none"> <li>1. Limiting the number of employees in the company to a minimum limit (number of employees and operating facilities);</li> <li>2. Closing the entertainment centers and limiting the operating hours of restaurants, café and the like;</li> <li>3. Ensuring all employees have been protected of their safety and health through participation in BPJS Health, and health protocols have been implemented by involving P2K3 officers in the company;</li> <li>4. Complying with the Minister of Manpower of the Republic of Indonesia Circular Letter dated 17 March 2020 Number M/3/HK.04/III/2020 concerning the Protection of Workers/Laborers and Business Continuity in the Prevention and management of COVID-19;</li> </ol>

NO	CIRCULAR LETTER/ DECREE/APEAL	ISSUED BY	DATE OF ISSUANCE	SUMMARY OF KEY POINTS
				5. Information channel about COVID-19 in Central Java: <ul style="list-style-type: none"> <li>• <a href="https://corona.jatengprov.go.id/screening">https://corona.jatengprov.go.id/screening</a></li> <li>• Central Java Health Office (024) 3580713</li> <li>• Integrated Post of command: 082313600560.</li> </ul>
4	West Java Manpower Office Circular Letter Number 560/1471/ Disnakertrans concerning Monitoring of Covid-19 Impacts on The Survival of Workers/Laborers And Companies/ Industries In West Java			<ol style="list-style-type: none"> <li>1. Companies and Trade/Labor Unions should agree to minimize working hours and work activities.</li> <li>2. Company and Trade/Labor Union Leaderships negotiate to agree on implementing the Health Protocol of Social/Physical Distancing.</li> <li>3. For companies that implement Social/Physical Distancing shall report in writing to the Provincial/District/ City Manpower Offices and or UPTD Wasnaker.</li> <li>4. Companies which implement a policy of laying off and/ or terminating the employment relations shall report in writing the Workers'/Laborers' identities.</li> <li>5. The results of the monitoring/data collection shall be reported daily by the UPTD Wasnaker to the West Java Provincial Manpower and Transmigration Office.</li> <li>6. The leadership of companies who submit the report can use the contact number as written in the Circular Letter.</li> </ol>

In addition to what described in the above table, some districts/cities in West Java, Central Java, and Banten provinces have issued other circular letters on limitations on the number of workers and business activities. BW recommends to factories to check for these applicable circulars which may contain more detailed information.

## ENDNOTES

- 1 ILO Employment and Decent Work for Peace and Resilience Recommendations, Number 205, 2017. See also ILO Standards and COVID-19 (corona virus), Key Provisions of International Labour Standards relevant to the evolving COVID-19 Outbreak, ILO NORMES, 23 March 2020, version of 1.2., page 5
- 2 Idem, page 7: What is the Role of Social Dialogue in Addressing the COVID-19 Pandemic?
- 3 This choice is made possible by referring to Government of the Republic of Indonesia Regulation Number 21 of 1954 concerning the Stipulation of Labor Break Regulations that the establishment of annual leave is the prerogative of the employer and the implementation can be agreed upon between workers and employers, with due regard to the interests of workers
- 4 Joint Statement on COVID-19 by the International Organization of Employers and the International Trade Union Confederation, accessed through: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dia-logue/---actrav/documents/genericdocument/wcms\\_739522.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dia-logue/---actrav/documents/genericdocument/wcms_739522.pdf)
- 5 <https://kemnaker.go.id/news/detail/menaker-ida-pastikan-thr-kepada-pekerja-tetap-wajib-dibayarkan>
- 6 Government Regulation (PP) Number 78 of 2015
- 7 The Minister of Manpower of the Republic of Indonesia Regulation Number 6 Year 2016
- 8 The Minister of Manpower of the Republic of Indonesia Regulation Number 20 of 2016
- 9 Manpower Law Number 13 of 2003, article 93
- 10 ILO Standards and COVID-19 (corona virus), Key Provisions of International Labour Standards relevant to the evolving COVID-19 Outbreak, ILO NORMES, 23 March 2020, version of 1.2., pp. 17-18
- 11 Regarding caution in the termination of employment issues related to the COVID-19 pandemic crisis can also be read at ILO Standards and COVID-19 (corona virus), Key Provisions of International Labour Standards relevant to the evolving COVID-19 Outbreak, ILO NORMES, 23 Maret 2020, version of 1.2., pp. 9-10, “What Should Happen if Employment is Suspended or Terminated?”