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## Jakarta Implements PSBB

The DKI Jakarta Governor has issued Regulation No. 33 of 2020 and Decree No. 380 of 2020 on the Implementation of Massive Social Restriction (*Pembatasan Sosial Berskala Besar* or “**PSBB**”) in DKI Jakarta.

The Regulation and the Decree followed several regulations and decrees on PSBB, namely:

1. President Joko Widodo’s declaration of Covid-19 as a public health emergency under Decree No. 11 of 2020;
2. Government Regulation No. 21 of 2020 on PSBB;
3. Regulation of the Minister of Health No. 9 of 2020 on PSBB Guidelines;
4. the request for PSBB in DKI Jakarta by the DKI Jakarta Governor; and
5. Decree of the Minister of Health No. HK.01.07/MENKES/239/2020 on the Determination of PSBB in DKI Jakarta.

The PSBB measures and its regulations/decrees are all undertaken based on the Health Quarantine Law (Law No. 6 of 2018) ([click here to read our alert on PSBB](#)).

### What Does This Mean?

DKI Jakarta is the first province to implement PSBB in its area. Under governor regulation, the PSBB measures are as follows:

1. educational institutions (save for medical-related educational institutions) are required to discontinue face-to-face interaction and to convene remote classes;
2. workplaces (with several exemptions) are required to suspend activities at the office but shall remain operational through a work-from-home system;
3. public places of worship must be closed;
4. political, sports and cultural events will be restricted;
5. use of or passengers for public and personal transportation will be limited;
6. gatherings with more than five persons will not be allowed.

The governor regulation regulates stricter PSBB measures compared to the regulation issued by the Minister of Health, particularly in relation to workplaces, as the latter does not require workplaces to be closed but to optimise a work-from-home system. The governor regulation, however, exempts certain workplaces which were not exempted by the Minister of Health’s regulation. Consequently, these workplaces can remain open in Jakarta provided that they comply with PSBB measures by implementing physical distancing and prohibiting mass gathering:

1. government institutions;
2. embassies and/or international organisations;
3. state/regional-owned enterprises;
4. workplaces in the following sectors:
  - a. healthcare;
  - b. food and beverages (supermarkets, minimarkets, restaurants, food stalls);
  - c. energy;
  - d. communication and information;
  - e. finance;
  - f. logistic;
  - g. hospitality (hotels);
  - h. construction;
  - i. strategic industry;
  - j. vital objects (*objek vital nasional*); and
  - k. daily needs; and
5. social non-governmental organisations.

It is still important to note that PSBB is not the same as a house quarantine. PSBB cannot force a person to stay inside their house. Instead, PSBB is a measure taken by the government to restrict institutions or activities, but not the individuals in those institutions or activities. Despite this distinction, violation of PSBB may still lead to criminal sanctions.

## Criminal Sanctions

During the state of a public health emergency, anyone who does not comply with or obstruct the health quarantine measures (including PSBB) may be subject to criminal sanctions of one-year imprisonment and/or a maximum fine of IDR 100 million (Article 93 of the Health Quarantine Law).

However, the above criminal sanctions under the Health Quarantine Law can only be imposed if the non-compliance or obstruction caused a public health emergency. The question is: whether the violation of the PSBB alone will qualify as a criminal act under Article 93 as we are already in the state of a public health emergency.

Further, while the Health Quarantine Law also provides for other criminal provisions, these only apply in the event of a border quarantine (*karantina pintu masuk*), which has not been implemented anywhere in Indonesia. A quarantine (in the form of a house quarantine, area quarantine, or border quarantine) must first be regulated based upon a government regulation. Further, it also requires a decree from the Health Minister based upon a request from the governor/mayor of the relevant area.

In addition to the criminal sanctions under the Health Quarantine Law, the National Police has also informed the public to avoid mass gathering, whether in a public place or a private property. Here, a violation may subject the relevant persons to charges under the Indonesian Criminal Code (“**KUHP**”), particularly provisions on (1) resistance against authority (Articles 212-215), (2) omission of order

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(Article 216), (3) causing a disturbance (Article 217), and (4) omission of crowd dispersal (crowd control) (Article 218). A violation of these provisions may lead to imprisonment of up to 16 months, but may also lead to more severe penalties if it harms the officer on duty.

Several legal aid institutions have questioned the enforceability of the said provisions, in particular Article 218 of the KUHP, as it should only be applied to a 'chaotic crowd', as referred in Articles 510 and 511 of the KUHP. This means that it will not apply to a peaceful mass gathering.

### **Will It Be Enough?**

Based on the number of cases, DKI Jakarta is considered as the epicentre of Covid-19. As such, the implementation of PSBB is crucial to avoid further spread of Covid-19 to other parts of Indonesia. Clearly, a PSBB in DKI Jakarta alone would not be enough to control the spread of Covid-19. But it remains to be seen whether other regions in Indonesia would follow Jakarta's lead.

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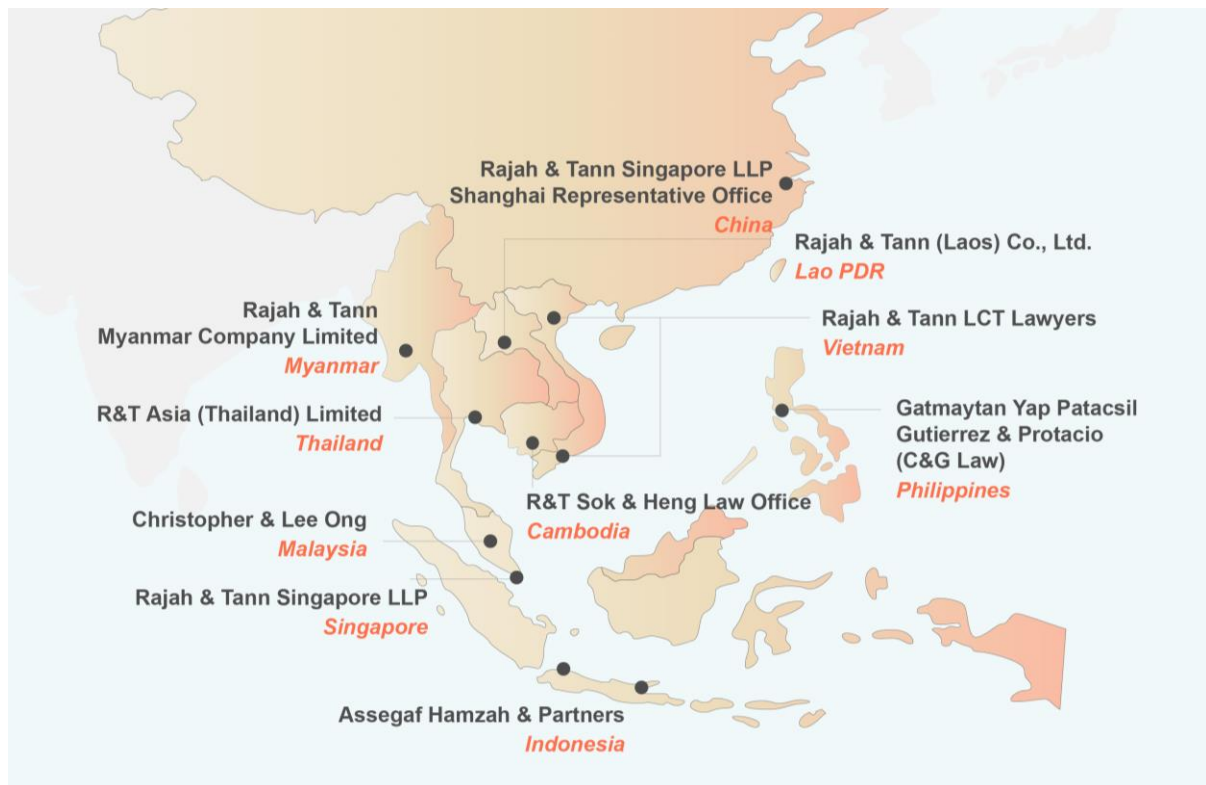
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