



## **Makarim & Taira S.**

Summitmas I, 16<sup>th</sup> & 17<sup>th</sup> Fls.  
Jl. Jend. Sudirman Kav. 61-62  
Jakarta 12190  
Indonesia

P: (62-21) 5080 8300, 252 1272  
F: (62-21) 252 2750, 252 2751  
[www.makarim.com](http://www.makarim.com)

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## **MPW Instruction No. 02/IN/M/2020 on the Protocol for Preventing the Spread of COVID-19 in Construction Works**

Minister of Public Works and Housing recently issued Instruction No. 02/IN/M/2020 on the Protocol for Preventing the Spread of COVID-19 in Construction Works ("**MPW Instruction 02/2020**"). This instruction is a follow up to President Joko Widodo's instructions related to COVID-19 prevention efforts and the emergency status in Indonesia due to the COVID-19 pandemic up until **29 May 2020** declared under Head of the National Disaster Management Agency Decree No. 13A of 2020 dated 29 February 2020.

MPW Instruction 02/2020 is addressed to officials at the Ministry of Public Works and Housing ("**MPWH**") and its construction services providers and therefore the requirements under MPW Instruction 02/2020 should apply only to the projects within MPWH. However, the protocol contained herein may be used as reference for other construction projects not procured by the MPWH.

MPW Instruction 02/2020 covers (i) COVID-19 Prevention protocols during construction works; (ii) the impact on construction contracts of COVID-19; and (iii) protocols for preventing COVID-19 in the procurement of goods for construction services.

Please see below our brief summary of the above points:

### **I. COVID-19 Prevention Protocols**

MPW Instruction 02/2020 requires officials at the MPWH and its construction service providers to follow the COVID-19 prevention protocols briefly outlined below:

#### **a. Establishment of a COVID-19 Prevention Work Unit**

MPW Instruction 02/2020 requires project owners (represented by Commitment Making Officials (*Pejabat Pembuat Komitmen*)) and contractors to establish a COVID-19 – Prevention Work Unit ("**Work Unit**").

The Work Unit will be responsible for the following matters, in close coordination with the MPWH:

- i. identifying the potential risks of the project location with the spread epicentre at the relevant area;

- ii. checking the conformity of the health facilities provided in the project location to MPW Instruction 02/2020; and
- iii. taking follow-up action for the implementation of the construction contract.

**b. Provision of Onsite Medical Facilities**

Contractors are now required to:

- i. provide health facilities (eg thermo-scanners, oxygen tanks, medicines) on site;
- ii. cooperate with hospitals and community health centres to handle emergencies;
- iii. provide additional sanitation facilities such as water, soap, and hand sanitizers, tissues, masks on site for all employees and guests; and
- iv. provide vaccinations, vitamins, and additional nutrients to improve the immune systems of the workers.

**c. Prevention Efforts on Site**

In order to prevent the spread of COVID-19, the following prevention efforts are required:

- i. The Work Unit must post flyers/posters on the prevention of the spread of COVID-19 on site;
- ii. The Work Unit accompanied by medical officials must broadcast explanations, conduct a campaign on how to prevent the spread of COVID-19;
- iii. Work Unit to check everyone's body temperature in the project location in the morning, at noon and in the evening;
- iv. To implement isolation and provided disinfectant sprays for work facilities in project locations; and
- v. Temporarily suspend work if there is an indication that the employees are exposed to COVID-19.

**II. The Impact on construction contracts of COVID-19**

If a construction project is affected by COVID-19, the project may be suspended temporarily or the specifications may be changed or both.

**a. Temporary Suspension of Construction Works**

The suspension will be based on the Work Unit's suggestions and checking. The construction works can be suspended for at least 14 days due to *force majeure*, if the following is found in the project location:

- i. the project has been identified as high risk due to its location near the epicentre of the spread of COVID-19;
- ii. a worker has been tested and found positive for COVID-19 or declared a patient under observation (*pasien dalam pengawasan/PDP*); and/or
- iii. the Ministry/Institution/Agency/Head of the Local Government has issued a regulation temporarily suspending the project due to *force majeure*.

If any of the above are found but the project cannot be suspended due to its nature and urgency, approval from the relevant MPWH official is required and the COVID-19 Prevention Protocol must be complied with. In which case, the contractor may be entitled to additional costs for payment of salaries to the construction workers payments to the sub-contractors, manufacturers and suppliers. The proposal of the additional cost will be reviewed by the government internal auditor.

During the suspension, both the owner and the contractor are responsible for the following:

- i. payment of salaries to the construction workers; and
- ii. payments to the sub-contractors, manufacturers and suppliers.

**b. Change of Specifications**

If under the construction contract some materials or spare parts are imported from countries determined to be infected with COVID-19 or countries that are not infected with COVID-19 but from which shipping is constrained due to the restriction on the procurement of import lines, a change to specifications is possible, by among other ways, the contractor informing the owner of the obstacles and providing evidence and both parties agreeing on the changes.

**III. The Protocol for Preventing COVID-19 in the Procurement of Goods for Construction Services**

MPW Instruction 02/2020 requires various procurement stages to be completed online instead of in face-to-face meetings. If they must be completed offline, the procurement committee should comply with MPW Instruction 02/2020 which requires, among other things, the committee to use face masks and hand gloves, to have a thermo-scanner and periodically spray disinfectant in the work area.

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**Contacts:**

Dirgantara Adi Nugroho	- <a href="mailto:dirgantara.nugroho@makarim.com">dirgantara.nugroho@makarim.com</a>
Rizanesia Citrasari	- <a href="mailto:rizanesia.citrasari@makarim.com">rizanesia.citrasari@makarim.com</a>
Heru Mardijarto	- <a href="mailto:heru.mardijarto@makarim.com">heru.mardijarto@makarim.com</a>
Lia Alizia	- <a href="mailto:lia.alizia@makarim.com">lia.alizia@makarim.com</a>
Rahayu N. Hoed	- <a href="mailto:rahayu.hoed@makarim.com">rahayu.hoed@makarim.com</a>