

New Regulation on Employment of Foreign Workers in Indonesia

On March 29, 2018, Presidential Regulation No. 20 of 2018 dated March 29, 2018 on Utilization of Foreign Expatriates (“**PR 20/2018**”) was issued as an effort to support the national economy, to expand work opportunities through the increase of investment in Indonesia. PR 20/2018 revokes Presidential Regulation No. 72 of 2014 dated July 11, 2014 on Foreign Worker Utilization and Implementation of Education and Training of Indonesia Workers.

One significant change in PR 20/2018 is that the Government removes the requirement for an employer to have a Foreign Manpower Utilization Permit (*Izin Mempekerjakan Tenaga Kerja Asing* – an “**IMTA**”) in order to employ a foreign worker.

We set out below salient provisions introduced in PR 20/2018.

❖ Simplification of Permits for Employment of Foreign Workers

1. **RPTKA**. The approval of Foreign Manpower Utilization Plan (*Rencana Penggunaan Tenaga Kerja Asing* – an “**RPTKA**”) issued by the Minister of Manpower is now the permit for employers to employ foreign workers. An RPTKA is required, except for government institutions, representative offices of foreign countries, and international organizations. The exemption from obtaining an RPTKA is also given for employers in the following cases: (i) for shareholders appointed directors or commissioners in a company, (ii) for diplomats and consulars working representative office of foreign countries, or (iii) for foreigners working in certain positions required by the government as stipulated by the Minister of Manpower.
2. **Submission of foreign workers’ information**. After an RPTKA is approved, instead of applying for an IMTA employers are now required to submit the information of their foreign workers to the Minister of Manpower. The Minister of Manpower will then issue a notification receipt for the submission (a “**Notification**”) which will be given to the employers and copied to the Directorate General of Immigration.
3. **VITAS**. As required previously, foreign workers are required to obtain a limited stay visa (*Visa Tinggal Terbatas* – “**VITAS**”). The application of a VITAS may be made by employers or by the foreigners to the Minister of Law and Human Rights and relevant immigration officials. A VITAS may be applied by submitting (i) the payment evidence of Foreign Manpower Utilization Fund (*Dana Kompensasi Penggunaan Tenaga Kerja Asing*) and (ii) the Notification. A VITAS will be the basis of the issuance of a Limited Stay Permit (an “**ITAS**”).
4. **ITAS**. An ITAS is a permit that enables foreigners to stay in Indonesia for their work for a certain period of time. A VITAS and an ITAS may be applied together to the representative of the Republic of Indonesia abroad (i.e., the Indonesian Embassy or the Indonesian Consulate). An ITAS will be given to the foreigners in the immigration inspection gate (i.e., in airports and ports). Under PR 20/2018, an ITAS will be initially issued for up to 2 (two) years and may be extended. With the issuance of an ITAS, foreigners are also granted with a multiple re-entry permit to Indonesia which validity is the same as the ITAS.

❖ **New Reporting Requirement for Employers**

In addition to the requirement to annually report the utilization of foreign workers, PR 20/2018 introduces a new reporting requirement for employers in the event an employment agreement of a foreigner ends or in the event an employer intends to terminate the employment of a foreign worker before its expiry date. Such report must be submitted to the Minister of Manpower and the Head of the Immigration Office in the foreigners' domicile.

❖ **Possibility for Foreign Workers to Hold Same Position in Different Employers Concurrently**

Employers in certain business sectors may hire foreign workers who already hold the same position in other companies. The type of position, business sectors, and the procedures to employ foreigners in this regard will be further regulated in a minister regulation.

❖ **Requirement to Provide Training and Education for Indonesian Associate**

PR 20/2018 reiterates the requirement of employers who hire foreign workers to provide education and training to their Indonesian employees and requires such employers to (i) appoint Indonesian employees as associate for each foreign worker hired, (ii) conduct education and training for Indonesian employees in accordance with the position held by foreign workers, and (iii) facilitating the education and training of Bahasa Indonesia to the foreign workers. Please note that employers who appoint foreign workers as directors and/or commissioners are exempted from appointing Indonesian employees as the associates.

❖ **Supervising Authority of Foreign Worker Utilization**

Manpower inspectors of the Minister of Manpower and the local manpower services offices as well as the relevant immigration officials are authorized to supervise the utilization of foreign workers in accordance with their respective duties and authorities.

PR 20/2018 will be effectively implemented by June 29, 2018, being 3 (three) months since its issuance. Although PR 72/2014 will be revoked upon the effectiveness of PR 20/2018, implementing regulations issued under PR 72/2014 remain valid as long as they do not contradict provisions of PR 20/2018.

Although PR 20/2018 stipulates easier procedures and requirements in employing foreign workers, we expect the Minister of Manpower to issue an implementing regulation that will further elaborate the process and administrative requirements to obtain the permits (which should just be the RPTKA) to employ foreign workers.

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