

## **New Presidential Regulation on Utilization of Foreign Workers and Training for Indonesian Workers**

For almost 20 years, Presidential Decree No. 75 of 1995 on Foreign Worker Utilization (“**PD 75/1995**”) governed the status and procedures for employing foreign workers in Indonesia. In July 2014, Presidential Regulation No. 72 of 2014 on Foreign Worker Utilization and Implementation of Education and Training of Indonesian Workers as Associates for Foreign Workers (“**PR 72/2014**”) was issued to better align government practice with the requirements under the Labor Law (Law No. 13 of 2003 on Labor) and the latest Minister of Manpower and Transmigration (“**MOMT**”) Regulation No. 12 of 2013 on Procedures for Foreign Worker Utilization (“**MOMT Reg. 12/2013**”).

One significant change in PR 72/2014 is that purely domestic companies may now freely employ foreigners as Directors and Commissioners, except for in human resources and certain other positions that are generally restricted to foreigners under MOMT Reg. 12/2013 and other MOMT regulations. Previously, foreign Commissioners could only be employed by foreign capital investment (PMA) companies.

Also in July 2014, the Government issued Government Regulation No. 57 of 2014 on Development, Management, and Protection of Language and Arts, as well as Enhancement of the Function of Indonesian Language (“**GR 57/2014**”), which augments the foreign worker language requirements in MOMT Reg. 12/2013. MOMT Reg. 12//2013 states that foreign workers recruited to work in Indonesia must be able to communicate in the Indonesian language. GR 57/2014 stipulates that the ability to communicate in Indonesian shall be in accordance with the skills required for the relevant position, and that if the foreign worker is unable to meet the required standards, he/she shall be required to participate in language training.

In conjunction with the Labor Law and MOMT Reg. 12/2013, PR 72/2014 also requires a company that recruits foreign workers in Indonesia to have an Expatriate Manpower Utilization Plan (RPTKA) and the relevant Expatriate Work Permit (IMTA). Other than for Directors and Commissioners, PR 72/2014 requires employers to appoint an Indonesian worker as an “associate” (*pendamping*) to each foreign worker for education and training in the interest of technology transfer and enhancing expertise. Foreign worker utilization and education and training of companion workers must be reported to the manpower office every six months.

PR 72/2014 contains no sanctions for violation of its provisions; however, sanctions regulated in the Labor Law, such as administrative sanction, revocation of business license, and criminal sanction, may be imposed for employing foreign workers without a proper working permit and failing to report implementation of foreign workers and education and training of the companion worker.

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