




Employment Law: Quarterly Review Second Quarter 2018 - Indonesia

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2018

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2017 edition

Important:
action likely
required

Good to know:
follow
developments

Note changes:
no action
required

Looking
Back

Looking
Forward

LOOKING BACK

19
DEC

2018

Supreme Court Issues New Guidelines on Expatriate Employees

On 19 December 2017, the Supreme Court issued Circular Letter No. 1 Year 2017 regarding the Implementation of the 2017 Supreme Court Meeting as a Guideline for the Indonesian Courts (“SEMA No.1”). SEMA No. 1 is a 41-page document that contains new policies to be applied by courts in Indonesia when handling criminal, civil, religious and military matters.

Of particular interest here is the section on labor court policies, found on page 13 of SEMA No. 1. Here, the Supreme Court has issued new labor court guidelines as follows:

1. Foreign employees can be employed in Indonesia only for certain positions and for a certain period of time under a fixed-term employment agreement (*Perjanjian Kerja Waktu Tertentu* or PKWT).
2. Legal protections for foreign employees only apply if such foreign employees have obtained a work permit (*Izin Mempekerjakan Tenaga Kerja Asing* or IMTA).
3. If the work permit of a foreign employee has expired but their fixed-term employment agreement is still valid, the remaining period of the fixed-term employment agreement will not be protected by law.

WEDNESDAY

29
MAR

2018

Rules on Recruitment of Foreign Workers Amended

Presidential Regulation No. 20 of 2018 regarding the Use of Foreign Workers was issued on 29 March, 2018, introducing several changes related to the employment of foreign workers. These changes include:

1. A Foreign Worker Utilization Plan (“RPTKA”) is now considered a valid work permit that functions similar to an Expatriate Work Permit (“IMTA”). Employers were previously required to submit a RPTKA as the basis to obtain an IMTA.
2. Expands the scope of employers allowed to employ foreign workers by adding other businesses as long as such businesses are not prohibited to employ expatriates under the prevailing laws and regulations.
3. Employers in some business sectors can now hire an expatriate who is already employed by another company in a similar position. The second employer can hire such expatriate for a duration until the employment contract of the expatriate with the initial employer expires.
4. For work that is considered urgent and of an emergency nature an employer can immediately recruit a foreign worker and then seek approval of the RPTKA no later than two working days after the foreign worker has been hired.

WEDNESDAY

11
APR

2018

Scope of Administrative Sanctions for Employers Consistently Failing to Comply with Social Security Obligations has been Expanded

The Minister of Manpower (“MOM”) on 11 April, 2018, issued MOM Regulation No. 4 of 2018 regarding Procedures for the Imposition and Revocation of Administrative Sanctions in the Form of Certain Public Access Restrictions for Employers other than State Administrators. This new regulation contains references to the Social Security Law, which includes the previously omitted Health Social Security Program (BPJS Kesehatan). It is therefore clear that administrative sanctions will now also apply in circumstances where employers do not comply with their obligations under the Health Social Security Program.

WEDNESDAY

27
APR

2018

New Rules on Work Health and Safety

Minister of Manpower Regulation No. 5 of 2018 regarding Health and Safety in the Work Environment was issued on 27 April, 2018, to revise several regulations related to occupational safety and health. The changes were said to be in response to technological and legal developments. The main thrust of this regulation is that employers and/or company management are obligated to comply with and implement occupational health and safety requirements to create a safe, healthy and comfortable work environment, and to prevent work accidents and work-related illness.

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INDONESIA

16
MAY

2018

New Task Force Established to Supervise Foreign Workers

As the name suggests, Minister of Manpower Decree No. 73 of 2018 regarding Task Force for the Supervision of Foreign Workers, dated 16 May, 2018, provides for the establishment of a task force to supervise foreign workers in Indonesia. Task force members will be drawn from different government ministries and will supervise and enforce the various laws and regulations related to the employment of expatriates.

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