

IMPORTANT NEW RULES ON OUTSOURCING INDONESIA

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On 14 November 2012, the Minister of Manpower and Transmigration of the (“MOMT”) issued MOMT Regulation No. 19 of 2012 regarding Terms of Partial Assignment of Work to Third Party Companies (“Regulation No. 19”) Regulation No. 19 covers two types of outsourcing:

- a. business activity outsourcing (pemborongan pekerjaan); and
- b. manpower outsourcing (penyediaan tenaga kerja).

Business Activity Outsourcing

Outsourced work which constitutes business activities must meet the following the criteria:

- a. be conducted separately from the user company’s core business in terms of management and activities;
- b. be conducted under a direct or indirect order from the user company.
- c. be categorized as business support activities (according to the flow chart issued by the relevant business sector association); and
- d. not have a direct impact on the production process if the business activity were to stop.

The user company must report the type of work to be outsourced to the local manpower office where the work will be conducted and a receipt for the report will be issued. The user may not engage the outsourcing company without a receipt.

The business activity outsourcing agreement must contain certain provisions required under Regulation No, 19 and be registered with the relevant manpower office at least thirty days before the work commences.

Regulation No. 19 requires a business activity outsourcing company to: a. be legal entity; b. have a company registration certificate; c. have a business license; and d. have evidence of filing its mandatory manpower reports (WLTK).

Manpower Outsourcing

Regulation No. 14 limits manpower outsourcing to support services which are separate from the main work of the user company and they may not directly affect the production process of the user. Support services comprise:

- (i) cleaning services;
- (ii) catering for employees;
- (iii) security personnel;
- (iv) support services in the mining and oil sectors; and
- (v) employee transportation services.

In addition to the above, Regulation No. 19 requires outsourcing companies to:

- a. be established as a limited liability company (a Perseroan Terbatas or PT);
- b. hold a company registration certificate (TDP);
- c. hold a proper business license;
- d. have proper receipts for mandatory employment reports;
- e. hold an operating license;
- f. have a permanent office and address; and
- g. have a taxpayer registration number.

Regulation No. 19 requires the type of work to be outsourced by the user to be reported to the manpower agency within the municipality or regency in which the work to be outsourced will be conducted. Besides reporting its outsourcing activities, the user company must register the outsourcing agreement with the manpower agency where the work to be outsourced will be conducted. If the registration is deemed proper by the relevant authority, a receipt for registration will be issued within 7 days. Any employer outsourcing work and therefore having an outsourcing agreement with a third party provider, must adjust its outsourcing arrangement to Regulation No. 9.