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## The Implementing Regulation of the Omnibus Law on Job Creation: Government Regulation No. 39 of 2021 on its Implementation in the Halal Product Guarantee Sector

On 2 February 2021, the Indonesian Government issued Government Regulation No. 39 of 2021 (“**GR 39/2021**”), as the implementing regulation of Law No. 33 of 2014 on Halal Product Guarantees which was recently amended by Law No. 11 of 2020 on Job Creation (the “**Omnibus Law**”).

GR 39/2021 has replaced the previous regulation on halal product guarantees, Government Regulation No.31 of 2019 (“**GR 31/2019**”) and contains more detailed provisions than GR 31/2019. This advisory highlights the key provisions of GR 39/2021.

### I. Halal-Certified Products

According to GR 39/2021, products that must be halal certified are (i) goods; and (ii) services.

Goods include:

- a. food;
- b. drinks;

- c. drugs;
- d. cosmetics;
- e. chemical products;
- f. biological products;
- g. genetically modified products; and
- h. goods people use or utilize.

Services include business services related to the goods referred above:

- a. animal slaughtering;
- b. processing;
- c. storage;
- d. packaging;
- e. distribution;
- f. sales; and
- g. serving.

## **II. Applying for a Halal Certificate**

All products that are imported, distributed and traded in Indonesia must be certified halal, unless they are non-halal products. Non-halal products must be accompanied by the information that they are 'non-halal'.

### **A. Submitting a Halal Certificate Application**

Under GR 39/2021, business actors (any person or business entity in the form of a legal entity or non-legal entity engaged in business activities in Indonesia) can submit an application for a halal certificate for the products in Indonesian language to the Halal Product Organizing Agency (*Badan Penyelenggara Produk Halal* - "BPJPH") through an electronic system.

The Halal Inspection Agency (*Lembaga Pemeriksa Halal* – "LPH") will check or test the halal nature of the product according to the standards established by the BPJPH, which will include (i) checking the validity of the documents and (ii) examining or testing the halal nature of the product.

The LPH will then submit the results of the examination or testing of the halal nature of the product to the Indonesian Ulema Council (*Majelis Ulama Indonesia* – "MUI") with a copy to the BPJPH. The MUI will determine the halal nature of a product in a MUI halal *fatwa* session. The result will be a halal determination for the product or a determination of the halal nature of the product.

### **B. The Issuance of the Halal Certificate**

Upon receipt of the MUI's decision on the halal nature of the product, the BPJPH will issue a halal certificate which is valid for 4 years.

If the MUI determines that a product is non-halal, the BPJPH will issue a non-halal certificate upon receipt of the decision on the halal nature of the product from the MUI.

### **C. Halal Certification for Micro- and Small-Scale Business Actors**

For micro and small-scale business actors, compliance with the halal certification requirement is only based on statements submitted by micro and small-scale business actors.

A micro- or small-scale business is defined as a productive business that has the net worth or annual sales revenue determined under the prevailing laws and regulations which meets the following criteria:

- a. its products are not at risk of containing materials that have been confirmed to be non-halal; and
- b. its production process is confirmed to be halal and simple.

The statements micro- and small-scale business actors submit must be based on the halal standards set by the BPJPH.

## **III. Halal and Non-Halal Labelling**

### **A. Halal Labels**

GR 39/2021 requires business actors to place a halal label on products that have received a halal certificate.

The halal label must be placed on (i) the product packaging, (ii) certain parts of the product, or (iii) a specific place on the product. The halal labelling requirement can be exempted for:

- a. products, the packaging of which is too small to allow a description;
- b. products that are sold and packaged directly in front of buyers in small quantities; and
- c. products sold in bulk.

### **B. Non-Halal Labels**

GR 39/2021 requires producers of products originating from prohibited materials to show that they are non-halal. The non-halal information can be provided in a picture, sign or in writing placed on:

- a. the product's packaging;
- b. a specific part of the product; or
- c. a specific place on the product.

#### **IV. Foreign Halal Certificates**

Foreign products entering Indonesia which have been halal certified outside of Indonesia must be registered with the BPJPH. The importers or their official representatives can submit applications for their registration.

An application for the registration of a foreign halal certificate must be submitted to the BPJPH in writing and be accompanied by:

- a. the applicant's data;
- b. a copy of the foreign halal certificate which has been legalized by the Indonesian embassy/consulate abroad;
- c. a list of goods to be imported into Indonesia, complete with their code numbers for the harmonization system (HS Code); and
- d. a written statement that the documents submitted are true and still valid.

#### **V. Stages of the Obligation to be Halal Certified for Certain Types of Products**

Halal certification is being implemented in stages. The first stage applies to the following products:

- a. food and beverage products;
- b. raw materials, food additives and auxiliary materials for food and beverage products; and
- c. the results of slaughtering and slaughtering services.

The next stage will apply to products other than those listed above including among others the following:

- a. cosmetics, chemical products and genetic engineering products, from 17 October 2021 to 17 October 2026;
- b. goods people use and utilize in the category of risk class A medical devices according to the prevailing laws and regulations, from 17 October 2021 to 17 October 2026;
- c. goods people use and utilize in the category of risk class B medical devices according to the prevailing laws and regulations, from 17 October 2021 to 17 October 2029; and
- d. goods people use and utilize in the category of risk class C medical devices according to the prevailing laws and regulations, from 17 October 2021 to 17 October 2034.



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