

## Client Alert



August 2015

### Update - New Ministry of Employment Regulation on Foreign Workers

As you are aware from our previous Client Alert in July 2015 regarding New Ministry of Employment Regulation on Foreign Workers (please click [here](#)), on 29 June 2015 the Minister of Employment ("MOE") issued Regulation No. 16 of 2015 on Procedures for the Utilization of Foreign Manpower ("**Regulation 16**"). Regulation 16 replaced Regulation No. 12 of 2013 on the same matter.

#### Regulation 16

As mentioned in the July 2015 Client Alert, Regulation 16 regulates a number of new matters related to work permits. The following are some of the key matters:

1. Requirement for non-resident directors and commissioners to obtain a work permit.
2. Indonesian to foreigner ratio requirements of 10:1;
3. Expansion of the type of work that can be conducted under a "temporary" work permit (including the activity of "*attending a meeting held with the headquarters or the representatives in Indonesia*").
4. Removal of the requirement to obtain a recommendation to obtain a limited stay visa for the purpose of working (commonly referred to as a "TA.01") - see further comments below.

#### Implementation - Status

Although Regulation 16 applies as of the date it was issued (i.e. 29 June 2015), as far as we are aware, it has not yet been implemented in practice and work permits have continued to be processed as usual (i.e. no changes have been made).

It is still not clear how a number of the new requirements under Regulation 16 will be implemented.

We understand that recently a number of government agencies have been meeting to discuss the implementation of Regulation 16, and the MOE plans to issue implementation guidelines. However, it is not yet known what the guidelines will cover or when they will be issued.

#### MOE Announcement - TA.01

On Monday this week, the MOE announced the removal of the requirement to obtain a TA.01. This announcement was posted on the MOE website on Tuesday.

[www.hhp.co.id](http://www.hhp.co.id)

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Among other things, the announcement states that in light of Regulation 16, TA.01 are no longer applicable as of 31 August 2015.

The announcement also states that:

- Work permit applications can be submitted online without first obtaining a TA.01.
- Applications for a work permit for "emergency" work and "temporary" work with a validity period of 1 month can be submitted as soon as the Compensation Fund for Foreign Worker Utilization ("**DKP-TKA**") has been paid.
- For applications for work permits with a validity period of 2 to 12 months, the DKP-TKA should only be paid after the validity period of the permit is confirmed. Once the DKP-TKA is paid, evidence of the payment must be submitted.
- Online Applications for a TA.01 will only be accepted up to 26 August 2015.
- Submission of physical documents, which is a follow up of the online submission of a TA.01 application, will only be accepted up to 27 August 2015.
- Applications for TA.01 submitted on or before the above dates will be processed. Once issued, the TA.01 will remain valid for 2 months from the date of issuance.
- Employers of a foreigner with an expired TA.01 (i.e., one not used to process a work permit within the 2-month validity period), need to "*clarify the matter before processing further*". In our view, this means that the process to apply for the work permit will need to start again (this is not new).

Since the announcement does not mention any other items in Regulation 16, it remains to be seen how the other new items will be implemented (including the requirement for non-resident directors and commissioners to obtain a work permit, and expansion of the type of work that can be conducted under a "temporary" work permit). However, since the announcement that TA.01 is no longer applicable has now been issued, it is possible that the implementing guidelines of Regulation 16 will be issued sooner rather than later.

As soon as additional information becomes available, another client alert will be issued.