



Legal Alert

Perppu on Job Creation:
Amendment to Job
Creation Law
(Competition, Investment,
MSME Sector)

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The Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation ("**Perppu on Job Creation**") issued and enacted on 30 December 2022 is intended to act as a substitute for Law No. 11 of 2020 on Job Creation ("**Job Creation**"). The primary purpose of Perppu on Job Creation is to provide temporary measures to address pressing legal and social issues due to the mandate of Constitutional Court Decision No. 91/PUU-XVIII/2020 ("**Constitutional Court Decision**") which declared the Job Creation Law as "conditionally unconstitutional" and shall be corrected and/or amended within the 2 years after the issuance of the Constitutional Court Decision.

I. GENERAL OVERVIEW

In essence, the enactment of the Perppu on Job Creation accommodates the same provisions as Job Creation Law, related to:

- a. enhancing the investment ecosystem and business activities;
- b. increasing the protection and welfare of workers;
- c. facilitation, empowerment, and protection of Cooperatives and Micro, Small, and medium-scale business ("**MSME**"); and
- d. increasing government investment and accelerating national strategic projects.

This article will focus on the amendments made by the Perppu on Job Creation within investment, competition, and MSME sectors.

II. ANALYSIS

The Perppu on Job Creation introduced several amendments to the following existing law:

- a. Law No. 5 of 1999 on the Prohibition of Monopolistic and Unfair Business Competition Practices ("**Competition Law**");
- b. Law No. 25 of 2007 on Investment ("**Investment Law**");
- c. Law No. 20 of 2008 on Micro, Small, and Medium-Scale Businesses ("**MSME Law**");

Additionally, amendments of laws listed above will not deemed its implementing regulations invalid unless the implementing regulations are in contradiction with the Perppu on Job Creation.

COMPETITION LAW

COMPETITION LAW		JOB CREATION LAW	PERPPU ON JOB CREATION	
Article 46		Article 46	Article 46	
(1)	In the event that there are no objections, the decision of the Commission as referred to in Article 43 paragraph (3) shall have permanent legal force.	The Job Creation Law did not amend this Article.	(1)	In the event that there are no objections, the decision of the Commission as referred to in Article 43 paragraph (3) shall have permanent legal force.
(2)	The decision of the Commission as referred to in paragraph (1) its execution order shall be requested to the District Court .		(2)	The decision of the Commission as referred to in paragraph (1) its execution order shall be requested to the Commercial Court .

As listed above no amendment was made to Article 46 under the Job Creation Law which stated that the execution order is the authority of the District Court. However, the Job Creation Law introduced in Article 44 and Article 45 that the authority of the District Court to examine objections raised against the Business Competition Supervisory Commission's ("**KPPU**") decision had transferred to the Commercial Court.

On the other hand, the Perppu on Job Creation amends Article 46 to be in line with Circular of The Supreme Court No. 1 of 2021 on Transfer Of Examination Of Objections To The Decision Of The Business Competition Supervisory Commission To The Commercial Court ("**SEMA 1/2021**") which stated the Commercial Court, in accordance with the authority granted by law, is to receive, examine and adjudicate cases of objections to the decisions of KPPU as of 2 February 2021.

Further, the procedures for filing and examination of objections are regulated in Regulation of The Supreme Court No. 3 of 2021 on Procedures for Submission and Examination of Objections to Decisions of the Commission for the Supervision of

Business Competition at the Commercial Court ("**PERMA 3/2021**"), as listed below:

- a. Objections can only be submitted by the Reported Party and KPPU is the respondent.
- b. Examination of objections is carried out on formal aspects and/or materially based on a copy of the KPPU's decision and case files.
- c. Objections are submitted to the Registrar's Office of the Commercial Court or administration of electronic cases in accordance with the System Court Information.
- d. Examination of objections is carried out without going through a process mediation.
- e. With the approval of the panel of judges, the applicant for objection may submit witnesses or experts who have previously been submitted to an examination at the KPPU provided that their statement is not included or is not considered in the KPPU's decision or their attendance is refused to provide information. KPPU may also submit witnesses or experts who have been examined to strengthen their arguments.
- f. The applicant cannot submit evidence of letters and/or documents.
- g. The examination is carried out in the shortest possible time 3 (three) months and a maximum of 12 (twelve) months. In the event that the examination is done less than 3 (three) months, the panel of judges can declare the decision with the considerations.

Investment Law

INVESTMENT LAW	JOB CREATION LAW	PERPPU ON JOB CREATION
Article 13	Article 13	Article 13
(1) The government is required to specify business fields reserved for micro, small and medium-sized enterprises, and cooperatives, as well as business fields opened to large enterprises with conditions it has to work together with micro, small and medium-sized enterprises, and cooperatives.	(1) The Central Government or Regional Governments in accordance with their authority provide convenience, protection, and empowerment for cooperatives and micro, small and medium enterprises in the implementation of Investment based on norms, standards, procedures, and criteria	(1) The Central Government or Regional Governments in accordance with their authority provide convenience, protection, and empowerment for cooperatives and micro, small and medium enterprises in the implementation of Investment based on norms, standards, procedures, and criteria

	set by the Central Government.	set by the Central Government.
(2) Government is to cultivate and develop micro, small and medium-sized enterprises, and cooperatives through the partnership program, competitiveness improvement program, innovation encouragement, and market development, as well as information distribution to the farthest extent.	(2) Protection and empowerment referred to in paragraph (1) in the form of fostering and developing cooperatives and micro, small and medium enterprises through: <ol style="list-style-type: none"> a. partnership program; b. human resource training; c. increasing competitiveness; d. providing incentives for innovation and market expansion; e. access to finance; and f. wide dissemination of information. 	(2) Protection and empowerment referred to in paragraph (1) in the form of fostering and developing cooperatives and micro, small and medium enterprises through: <ol style="list-style-type: none"> a. partnership program; b. human resource training; c. increasing competitiveness; d. providing incentives for innovation and market expansion; e. access to finance; and f. wide dissemination of information.
	(3) Protection and empowerment as referred to in paragraph (2) are carried out by the Central Government and/or Regional Governments according to their authority based on the norms, standards, procedures, and criteria stipulated by the Central Government.	(3) The partnership program as referred to in paragraph (2) letter a is a partnership as referred to in the law in the field of micro, small and medium enterprises.
	(4) The partnership program as referred to in paragraph (2) letter a is a partnership as referred to in the law in the field of micro, small and medium enterprises.	

Previously, Article 13 paragraph (3) of the Job Creation Law specifically stated the parties implementing the empowerment and protection program are the regional government and the central government.

Nonetheless, with the removal of the relevant paragraph which stated that protection and empowerment program are carried out by the central government and/or regional government, it becomes unclear which party will carry out the protection and empowerment program.

MSME Law

MSME LAW	JOB CREATION LAW	PERPPU ON JOB CREATION
Article 6	Article 6	Article 6
(1) Criteria of a Micro Enterprise are as follows: <ol style="list-style-type: none"> a. possess net assets of maximum Rp50,000,000.00 (fifty millions rupiahs), excluding land and business premises; b. possess an annual sale income of maximum Rp300,000,000.00 (three hundred million rupiahs). 	(1) Criteria for Micro, Small, and Medium Enterprises may contain business capital, turnover , indicators of net worth, annual sales results, or investment value, incentives and disincentives, application of environmentally friendly technology, local content, or the number of workers in accordance with each criterion. business sector.	(1) Criteria for Micro, Small, and Medium Enterprises may contain business capital, net worth indicators, annual sales results, or investment value, incentives and disincentives, application of environmentally friendly technology, local content, or the number of workers in accordance with the criteria for each business sector.

<p>(2) Criteria of a Small Enterprise are as follows:</p> <ul style="list-style-type: none"> a. possess net assets of maximum Rp50,000,000.00 (fifty million rupiahs), excluding land and business premises; b. possess an annual sale income of maximum Rp300,000,000.00 (three hundred million rupiahs). 	<p>(2) Further provisions regarding the criteria for Micro, Small and Medium Enterprises are regulated in a Government Regulation.</p>	<p>(2) Further provisions regarding the criteria for Micro, Small and Medium Enterprises are regulated in a Government Regulation.</p>
<p>(3) Criteria of a Medium Enterprise are as follows:</p> <ul style="list-style-type: none"> a. possess net assets of more than Rp500,000,000.00 (five hundred million rupiah) up to Rp10,000,000.00 (ten billion rupiahs) excluding land and business premises; or b. Possess an annual sale income of more than Rp2,500,000.00 (two billion five hundred million rupiahs) up to the maximum of Rp50,000,000.00 		

(fifty billion rupiah)		
(4) The criteria as referred to in paragraph (1) letter a, point b, and paragraph (2) letter a, letter b, and paragraph (3) letter a, letter b, the nominal values may be amended in accordance with the economy development which is regulated by a Regulation of the President.		
Article 88	Article 88	Article 88
Not Regulated	(1) The Central Government and the regional Government organize an integrated MSME information system.	(1) The Central Government and the regional Government organize an integrated MSME information system.
	(2) The results of the data collection referred to in paragraph (1) are the MSME single database.	(2) The results of the data collection referred to in paragraph (1) are the MSME single database.
	(3) The single database as referred to in paragraph (2) must be used as a consideration for determining policies regarding MSME.	(3) The single database as referred to in paragraph (2) must be used as a consideration for determining policies regarding MSME.
	(4) The single database	(4) The single database

	as referred to in paragraph (2) is presented in a timely, accurate and efficient manner and can be accessed by the public.	as referred to in paragraph (2) is presented in a timely, accurate and efficient manner and can be accessed by the public.
	(5) The central government updates the information system and single database at least 1 (one) time in 1 (one) year.	(5) The central government updates the information system and single database at least 1 (one) time in 1 (one) year.
	(6) The single database as referred to in paragraph (2) shall be established within a maximum period of 2 (two) years from the enactment of this Law.	(6) The single database as referred to in paragraph (2) shall be established within a maximum period of 2 November 2022.
	(7) Further provisions regarding the MSME single database are regulated in Government Regulations.	(7) Further provisions regarding the MSME single database are regulated in Government Regulations.
Article 91	Article 91	Article 91
Not Regulated	(1) In the context of facilitating Business Permits, the Central Government and Regional Governments in accordance with their respective authorities are required to provide guidance. and registration for Micro and Small	(1) In the context of facilitating Business Licensing, the Central Government and Regional Governments in accordance with their authority are required to provide guidance and registration for Micro and Small Enterprises based

	Enterprises based on norms, standards, procedures and criteria set by the Central	on norms, standards, procedures and criteria stipulated by the Central Government.
	(2) Registration as referred to in paragraph (1) can be done online or offline by attaching: a. Identity Card (KTP); and b. Business certificate from the government at the neighborhood level.	(2) Registration as referred to in paragraph (1) can be done online or offline by attaching an Identity Card.
	(3) Online registration as referred to in paragraph (2) shall be given a business registration number through the electronic Business Licensing system.	(3) Online registration as referred to in paragraph (2) shall be given a business registration number through the electronic Business Licensing system.
	(4) The business identification number as referred to in paragraph (3) is a single license that applies to all business activities.	(4) The business identification number as referred to in paragraph (3) is a single license that applies to all business activities.
	(5) The single license as referred to in paragraph (4) includes Business Permit, Indonesian National Standard, and halal product guarantee certification.	(5) The single license as referred to in paragraph (4) includes Business Permit, Indonesian National Standard, and halal product guarantee certification.

	<p>(6) The Central Government and Regional Governments in accordance with their authority based on the norms, standards, procedures and criteria stipulated by the Central Government are required to provide guidance on Business Permits, fulfillment of standards, Indonesian National Standards, and certification of halal product guarantees.</p>	<p>(6) The Central Government and Regional Governments in accordance with their authority based on norms, standards, procedures and criteria stipulated by the Central Government are obliged to provide guidance on Business Permits, compliance with standards, Indonesian National Standards, and certification of halal product guarantees.</p>
	<p>(7) In the event that the business activities as referred to in paragraph (4) have medium or high risks to health, security and safety as well as the environment other than registering to obtain a business identification number, Micro and Small Enterprises are required to have a standard certification certificate and/or permission.</p>	
	<p>(7) The Central Government and Regional Governments in accordance with their authority based on norms, standards, procedures and criteria stipulated by the Central Government facilitate</p>	

	certification of standards and/or permits as referred to in paragraph (5).	
	(8) The Central Government and Regional Governments in accordance with their authority based on norms, standards, procedures and criteria stipulated by the Central Government facilitate certification of standards and/or permits as referred to in paragraph (5).	
	(9) Further provisions regarding single licensing as referred to in paragraph (5) and facilitation of standard and/or bin certification as referred to in paragraph (8) are regulated in a Government Regulation.	

As seen above, the Government has simplified the provisions on MSME. One of the simplifications is the removal of turnover as criteria for MSME. This amendment is made for the purpose of strengthening the MSME ecosystem by providing convenience for the MSME business actors.

Other than simplification above, the Government has also simplified Micro and Small registration by requiring only an Indonesian Identity Card (KTP).

III. CONCLUSION

As stated in the preamble of Perppu on Job Creation, the amendments to Job Creation Law introduced by the Perppu on Job Creation are expected to provide a breakthrough and legal certainty to be able to resolve various problems.

The above analysis further shown the adjustments made by Perppu on Job Creation are able to demonstrate its purpose in escalating the business climate with the facilities provided for MSME such as simplification of criteria and registration.

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