

Enforcement Date

5 August 2019

**General Corporate |
Manpower***Related ILB*

- Procedures for the Securing of Business Licenses by Foreign Outsourcing Companies
- Minister of Employment Adds Outsourcing Provisions
- Regulation on Sourcing Limitation
- Licensing Procedures for SIP3MI and Branch Licenses Integrated into OSS System
- Recruitment of Foreign Workers Further Regulated

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Outsourcing Business Licensing Integrated into OSS System

The 30-business-day deadline for the registration of Outsourcing Agreements has now been revoked. However, administrative sanctions may be imposed against any non-registration of Outsourcing Agreements.

In bid to deregulate the various licensing provisions which address outsourcing, the Minister of Manpower (“**Minister**”) has issued Regulation [No. 11 of 2019](#) on the Second Amendment (“**Second Amendment**”) to Regulation of the Minister [No. 19 of 2012](#) on Requirements for Transfers of Partial Work to Other Companies (Outsourcing) (“**Regulation 19/2012**”).¹

The Second Amendment repeals and replaces Regulation of the Minister [No. 6 of 2015](#) on Standard Operational Procedures for the Granting of Outsourcing Business Licenses through One-Stop Integrated Services at the Investment Coordinating Board (“**Regulation 6/2015**”).²

The Second Amendment specifically addresses the following outsourcing related matters:

1. Content of outsourcing agreements;
2. Registration of outsourcing agreements;
3. Licensing requirements for providers; and
4. Outsourcing employment agreements.

¹ Para. (b), Second Amendment. For more information on Regulation 19/2012, see ILBs [No. 2038](#) and [No. 2595](#).

² Art. 35, Second Amendment. For more information on Regulation 6/2015, see ILB [No. 2579](#).

Content of Outsourcing Agreements

To date, outsourcing has been implemented based on written agreements (“**Outsourcing Agreement**”) initiated between companies who require outsourced workers (“**Clients**”) and outsourcing providers (“**Providers**”), on the condition that the nature of any outsourced work should be confined to supporting services only and should not have any direct connection to the production process (e.g. cleaning services, catering, etc.).³

The Second Amendment introduces a number of new provisions which must be included in all Outsourcing Agreements, as follows:⁴

1. Description of the type(s) of work which will be carried out by the relevant outsourced workers;
2. Confirmation that the Providers are willing to accept outsourced workers employed by previous Providers for all types of work for which Clients utilize outsourced workers, in the event that there is any change of Providers;
3. Employment relationships between Providers and outsourced workers who are employed must be based on (“**Outsourcing Employment Agreements**”):
 - a. Permanent employment agreements (*Perjanjian Kerja Waktu Tidak Tertentu* – “**PKWTT**”); or
 - b. Temporary employment agreements (*Perjanjian Kerja Waktu Tertentu* – “**PKWT**”);
4. The rights of all outsourced workers must be ensured in accordance with the prevailing laws and regulations (newly added).

³ Art. 17, Regulation 19/2012.

⁴ Art. 19, Second Amendment.

Registration of Outsourcing Agreements

Providers should register all Outsourcing Agreements with local reGENCY/city manpower units (“**Local Manpower Units**”) in any areas in which outsourcing takes place.⁵ However, the registration deadline of 30 business days has now been revoked and thus there is no longer any deadline for the registration of Outsourcing Agreements.⁶

Furthermore, registrations of Outsourcing Agreements now no longer require the inclusion of draft employment agreements between Providers and outsourced workers.⁷ As a result, registrations now only require registration applications and Outsourcing Business Licenses.⁸

Upon the complete submission of a registration application, the relevant Local Manpower Units should then issue a registration receipt within three business days.⁹ Previously, the time window for the issuance of registration receipts was set at seven business days.¹⁰ In addition, rejected registration applications may be resubmitted by Providers.¹¹

Any Provider who continues to operate an outsourcing business in spite of the fact that the relevant registration receipt has not yet been issued may be subject to the following administrative sanctions:¹²

1. Reprimand; and
2. Suspension of business activities.

During any sanction period, the fulfillment of the rights of the relevant outsourced workers must still be ensured and remain the responsibility of the relevant Providers.¹³

⁵ Art. 20 (1), Second Amendment.

⁶ Compare Art. 20 (2), Second Amendment with Art. 20 (2), Regulation 19/2012.

⁷ Art. 20 (2b), Regulation 19/2012.

⁸ Art. 20 (2), Second Amendment.

⁹ Art. 21 (1), Second Amendment.

¹⁰ Art. 21 (1), Regulation 19/2012.

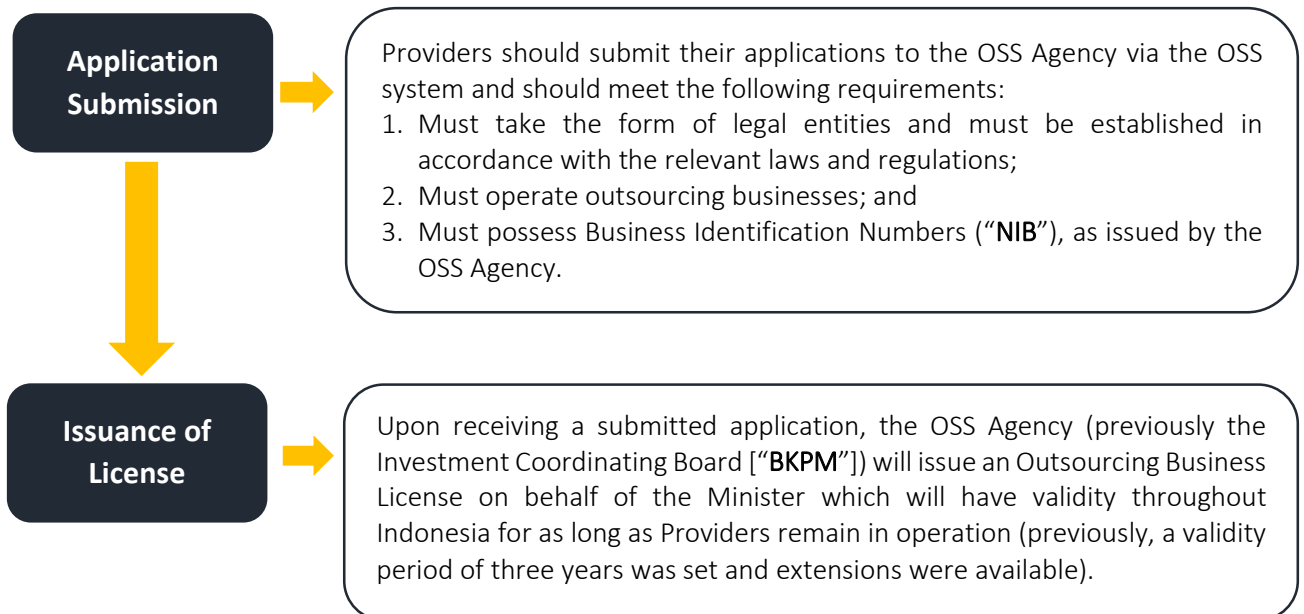
¹¹ Art. 21 (3), Second Amendment.

¹² Arts. 23 (1) and 23A (1), Second Amendment.

¹³ Art. 23 (2), Second Amendment.

Licensing Requirements for Providers

Licensing requirements for Providers have now been significantly modified in order to integrate them into the Online Single Submission (“**OSS**”) system. In essence, the primary license for Providers is the Outsourcing Business License and in order to secure this license, the following procedure should be followed by prospective Providers:¹⁴



Outsourcing Employment Agreements

Providers are required to enter into Outsourcing Employment Agreements (either PKWTT and/or PKWT) with outsourced workers.¹⁵ Moreover, all Outsourcing Employment Agreements must be registered with Local Manpower Units. A registration receipt will be issued within three business days of any such registration.¹⁶

The Second Amendment has been in force since 5 August 2019. ^{VN}

¹⁴ Arts. 24-25, Second Amendment; Arts. 3 (2) and 4 (1), Regulation 6/2015.

¹⁵ Art. 27 (1), Second Amendment.

¹⁶ Art. 27 (2-3), Second Amendment.

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