

Job Creation Act

Legal Insight

Job Creation Act: Government Regulation on the Implementation of the Manufacturing Sector

The Indonesian Government continues to encourage the strategic role of the Manufacturing sector in spurring the national economy, especially amid the impact of the COVID-19 pandemic. In February 2021, the Government of Indonesia finalized a number of implementing regulations to Law No. 11 of 2020 concerning Job Creation ("**Job Creation Act**"), one of which, Government Regulation No. 28 of 2021 concerning the Implementation of the Manufacturing Sector ("**GR 28/2021**"), has been in effect since its promulgation on 2 February 2021. GR 28/2021 is an implementing regulation of Law No. 3 of 2014 on Industry as amended by the Job Creation Act. Hopefully, the implementation of the Job Creation Act through GR 28/2021 will accelerate the growth of the country's Manufacturing sector and spur competitiveness in the global arena.

Highlights of GR 28/2021 include:

1. Green Manufacturing Standards

The Indonesian Government continues to raise the bar for the manufacturing sector and transform it in the direction of more sustainable practices. This is reflected in GR 28/2021 by which manufacturers must comply with Green Manufacturing Standards that are to be applied mandatorily. The application of Green Manufacturing Standards, covers at least raw materials, auxiliary materials, energy, production processes, products, business management, and waste management. The Manufacturing Standards will be set by the Minister of Industry.

In support of the Green Manufacturing Standards, GR 28/2021 has also added obligations for Manufacturing Companies to use raw materials and/or auxiliary materials in the production process that are efficient, environmentally friendly and sustainable, which materials are listed under GR 28/2021.

2. Assurance on the Availability of Raw Materials and/or Auxiliary Materials

To ensure the continuity of the production process and/or product development, both the central government and regional governments guarantee the availability and distribution of raw materials and/or auxiliary materials. For that purpose, the Central Government may:

- a. prohibit or restrict the export of raw materials and/or auxiliary materials; and
- b. grant facilities for import of raw materials and/or auxiliary materials.

The facilities include fiscal facilities, Non-Fiscal Facilities, and/or fulfilling the amount of imports as needed.

One tool which helps ensure the availability of raw materials and/or auxiliary materials is the commodity balance. The commodity balance means data and information containing, among others, the consumption and production of certain commodities for the needs of the population and manufacturers in a certain period of time that is determined and applied nationally.

The commodity balance will be based on a plan for manufacturing needs, the preparation of which involves proposals for the need for raw materials and/or auxiliary materials submitted to the Minister of Industry by manufacturing companies and/or suppliers of raw materials and/or auxiliary materials.

As regulated separately under Government Regulation No. 29 of 2021 on the Implementation of the Trade Sector, the curated data gathered under the commodity balance will serve as a reference for the Ministry of Trade in granting import and export permits to industries. The commodity balance is expected to simplify the import and export procedures which the sectoral ministries governing the commodity require.

With the enactment of GR 28/2021, it is hoped that the competitiveness of domestic manufacturing products can be increased through the guarantee of the availability of raw materials by the government.

3. Guidance and Supervision of Conformity Assessment Agencies (*Lembaga Penilaian Kesesuaian*)

Manufacturing standardization has an important role as a reference for ensuring and controlling the quality of manufacturing products. Manufacturing standardization is produced by mandatory Indonesian National Standards (“SNI”), Technical Specifications, and/or Codes of Procedure.

GR 28/2021 provides for assessment of conformity with the mandatory SNI, Technical Specifications, and/or Codes of Procedure to be carried out by an accredited conformity assessment agency appointed by the Minister of Industry.

Under GR 28/2021 and GR 2/2017, conformity assessment agencies are categorized as:

- i. product certification agencies;
- ii. testing laboratories; and
- iii. inspection agencies.

GR 28/2021 provides more detailed requirements for product certification agencies as conformity assessment agencies, including the possession of an active business license in field certification services or the assignment of institutional duties and functions for a product certification agency owned by the government (whether central or regional), an accredited laboratory, and the product certification agency must also be accredited.

Further, GR 28/2021 creates alternatives for manufacturers to comply with Manufacturing Standardization through conformity assessment agencies from outside the jurisdiction of the Republic of Indonesia, as long as there is an agreement of mutual recognition between countries in the field of technical regulations.

4. Strategic Industries

In an effort to stimulate the growth of the manufacturing sector in Indonesia, GR 28/2021 also provides facilities for industries categorized as strategic industries. Strategic Industries are defined as industries that are important to the country and which affect people's livelihoods, increase or generate value added strategic natural resources, or are related to the interests of national defense and security in the context of fulfilling the duties of the state and government. The facilities are provided in the form of fiscal and non-fiscal facilities to strategic industries that carry out the following activities:

- a. structural deepening;
- b. technological research and development;
- c. testing and certification; or
- d. restructuring of machinery and/or equipment.

Fiscal facilities can be provided in the form of granting exemption or relief from import duty on imported goods, VAT (Value Added Tax) or VAT exemption, and exemption from import Income Tax.

Non-fiscal facilities which can be provided may take the form of:

- a. easier licensing services;
- b. easier land/location procurement;
- c. provision of technical assistance; and
- d. regulation of strategic manufacturing products that are already available domestically.

5. Community Participation in Manufacturing Development

The new regulation also sets out community participation in manufacturing development, whereby the community may take part in the planning, implementation, and supervision of manufacturing. The participating community members must Indonesian citizens and/or legal entities which meet the following criteria:

- a. having interests in the national manufacturing development;
- b. having scientific background in the field of industry;

- a. having expertise in the field of industry; and
- b. experience in manufacturing development.

With this provision, the community is allowed to participate in encouraging the growth of the national manufacturing sector. It is indeed very positive because the community can now participate and contribute suggestions, opinions, and suggestions for the development of the country's manufacturing sector and provide information and reports related to manufacturing activities in the country.

The Ministry of Industry has developed a platform for this purpose, known as SIINas (the National Manufacturing Information System).

6. Procedures for Supervision and Control of Manufacturing Business Activities and Industrial Estate Business Activities

Before the promulgation of GR 28/2021, the supervision and control of industrial estates were regulated under Government Regulation Number 142 of 2015 concerning Industrial Estates, while the supervision of Green Manufacturing was regulated under Government Regulation Number 29 of 2018 concerning Manufacturing Empowerment.

With the enactment of GR 28/2021, the procedures for supervision and control of manufacturing business activities and industrial estate businesses, including among others manufacturing human resources, utilization of natural resources, Green Manufacturing standard, business licensing in the manufacturing sector, and specifications and guidelines for SNI procedures, are organized into one chapter in Chapter VI.

The supervision and control of manufacturing business activities and industrial estate business activities are carried out by the Central Government in that the Central Government may appoint an accredited institution to determine the compliance of manufacturing companies and industrial estate companies. The supervision will be carried out at least once a year with risk management.

Supervision is specifically carried out based on reports from business actors, the public and/or evaluation results.

*The article above was prepared by [Michael A Kaihatu](#) (Partner), **Abraham Sylvester Harryandi** (Senior Associate), and **Raisha Puti Damar** (Associate).*

This publication is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects of those referred to. Readers should take legal advice before applying the information contained in this publication to specific issues or transactions or matters. For more information, please contact us at dentons.hprp@dentons.com or Partners listed above.

No part of this publication may be reproduced by any process whatsoever without prior written permission from Hanafiah Ponggawa & Partners.