

Job Creation Act

Legal Insight

Halal Certification Process Simplified

With the largest Moslem population in the world, Indonesia has great market potential in the halal industry. This also followed by the growing demand by Moslem consumers for halal-based products and transparency as to whether a product is halal. As a response to such growing demand and in order to provide comfort and certainty to the Indonesian Moslem community seeking to consume halal products, the Government issued the Halal Product Warranties Act, Law Number 33 of 2014 (“**Law 33/2014**”) followed by its implementing regulations.

Then, in 2020, in order to ease the halal certification process for business actors, Law 33/2014 was amended by Law No. 11 of 2020 concerning Job Creation (the “**Job Creation Act**”) followed by Government Regulation No. 39 of 2021 concerning Implementation of Halal Product Warranties enacted on 2 February 2021 (“**GR 39/2021**”), which repealed the previous Government Regulation No. 31 of 2019 concerning Implementing Regulation on Halal Product Warranties.

1. Mandatory Halal Certification

As mandated under the Law 33/2014 and GR 39/2021, all products distributed in Indonesia must obtain a halal certificate with the exception of products classified as non-halal, which are still allowed to be distributed in Indonesia provided that such products contain information that they are non-halal products. Products classified as non-halal are products that use or contain ingredients which originate from and/or contain pork, alcohol which comes from the processing of *khamr* (intoxicants), an animal slaughtered not in accordance with the sharia law, and otherwise contain non-halal material as determined by the Indonesia Ulama Council (*Majelis Ulama Indonesia* or “**MUI**”).

Specifically for medicines, biological products and medical equipment whose raw materials have yet to be sourced from halal materials and/or cannot yet be produced in a halal manner, these Products can still be distributed provided that they contain information on the origin of such raw materials until halal materials and/or a halal method of production has been discovered. A Presidential Regulation will be issued to further regulate this matter.

2. Scope of Halal Process

The products subject to halal certification are of various sorts, since they are not limited to foods and beverages but also include other products as well. Such products, as referred to in GR 39/2021, include (i) goods related to food, beverages, medicines, cosmetics, chemical products, biological products, genetically modified products as well as goods that are worn, used, or utilized by the community, and (ii) services related to slaughtering, processing, storage, packaging, distribution, sales and display (“**Products**”).

The chemical products, biological products, and genetic engineering products and the related services referred to above only apply in relation to food, drink, medicines, or cosmetics. Meanwhile, goods that are worn, used, or utilized applies only to goods originating from and / containing animal elements.

The assessment for halal certification of the Products covers halal-based materials and halal-based production process. This includes the product's materials, processing, storage, packaging, distribution, display and sale.

The types of food, beverage, medicines, cosmetics and utilized goods will be determined further by the Minister of Religious Affairs.

3. General Halal Certification Procedure

The Job Creation Act and GR 39/2021 has reduced the time process for halal certification which improves legal certainty for business actors.

In order to obtain halal certification, business actors must submit a written application in Indonesian to the Halal Product Warranties Implementing Board (*Badan Penyelenggara Jaminan Produk Halal* or "**BPJPH**"). The BPJPH is an institution formed by the Government to implement halal product warranties.

To submit halal certification to BPJPH, business owners must:

- a. provide true, clear and honest information;
- b. separate the location, place and means of slaughtering, processing, storing, packaging, distributing, selling, and serving of halal and non-halal products;
- c. have a Halal Supervisor appointed by the Business Actor; and
- d. report changes in material composition to BPJPH.

After the required documents are deemed complete by BPJPH, the business actors will choose a Halal Inspection Agency (*Lembaga Pemeriksa Halal* or "**LPH**") to conduct the inspection and/or test the Products based on standards that have been determined by BPJPH, including (i) checking the validity of the documents and (ii) inspection or testing of whether the Products are halal or not. The inspection must be done within 15 (fifteen) days unless the halal auditor requires more time, in which case the inspection may be extended for another 15 (fifteen) days for products manufactured in Indonesia and another 10 (ten) days for products manufactured overseas.

For legal certainty, GR 39/2021 introduces sanctions for the LPH if it fails to meet the time limit set for the halal certification process, on which the LPH will be evaluated and/or subject to administrative sanctions.

The MUI Institute for the Study of Food, Drugs, and Cosmetics (*Lembaga Pengkajian Pangan, Obat-obatan, dan Kosmetika MUI*) and LPH that existed prior to GR 39/2021 being issued will still be recognized as LPH and the accreditation of each branch must comply with GR 39/2021 within a maximum period of 1 (one) year from the enactment of GR 39/2021.

The LPH will then deliver the result of such inspection or testing to MUI with a copy to BPJPH. MUI will be the institution that will determine whether the Products are categorized as halal or non-halal. If the Products are categorized as halal, MUI will issue a halal fatwa within 3 (three) business days after MUI receives the result of such inspection or testing of the Products from LPH. This is positive progress, compared to the previous rule that required 30 (thirty) days for MUI to issue a halal fatwa. Upon the issuance of the halal fatwa by MUI, BPJPH will issue a halal certificate within a maximum period of 1 (one) business day. This process also takes less time compared to the previous rule which allowed 7 (seven) days. The halal certificate is valid for 4 (four) years.

On the other hand, if MUI determines that the Products must be categorized as non-halal, MUI will issue an order stating that the Products are non-halal.

The business actors are required to pay the halal certification fee, which fee is determined by the Minister of Finance based on a proposal from the Minister of Religion and will be further regulated by BPJPH regulations.

4. Halal Certification for Imported Products

For imported Products, a halal certificate may be obtained from a foreign halal institution in the place where the products are produced, provided that BPJPH recognizes and has cooperation with such institution. Alternatively, importers or their authorized representatives may obtain the halal certificate in Indonesia through BPJPH pursuant to the steps and procedures set out in the Indonesian prevailing laws and regulations.

However, the existing foreign halal certificate must still be registered with BPJPH prior to distribution of the products in Indonesia. Upon registration, the importers and/or the authorized representatives must put the registration number adjacent to the halal label.

The validity period for registration of a foreign halal certificate follows the original validity period as stated in the foreign halal certificate issued by the foreign halal institution and it must be extended no later than 3 (three) months prior to the expiration date of the foreign halal certificate.

5. Halal Certification Procedure for Micro and Small Businesses

Specifically for businesses classified as micro and small businesses, the process of halal certification has been simplified and is free of charge to help reduce the time and cost for micro and small businesses. Micro and small business may obtain a halal certificate based on self-declaration by submitting a statement to BPJPH, subject to the halal standard as set out by BPJPH. The halal standard includes statement that the products are halal and BPJPH will assist micro and small businesses to complete the statement.

However, the micro and small businesses must fulfil the following criteria:

- a. The Products are not at risk and must use materials which have been confirmed to be halal Products; and
- b. The production process has been confirmed to be halal and simple.

Like the general halal certification procedure as elaborated in point 2 above, BPJPH will forward the statements by the micro and small businesses to MUI and MUI will determine whether the Products are categorized as halal or non-halal.

Not only does this process give relief for micro and small businesses, but it may also make halal certification easier for larger companies which use materials from micro and small businesses that have been halal certified.

6. Halal Label

After obtaining the halal certificate, the business actors are required to put the halal label on: (i) the Products' packaging, (ii) a specific part of the Products, and/or (iii) a specific place on the Products. Further, the halal label must be easy to see and read, hard to erase, remove or tamper with pursuant to the applicable laws and regulations. However, GR 39/2021 provides an exemption for certain Products which fulfill the following criteria:

- a. Products the packaging for which is too small, which makes it impossible to list the information;
- b. Products that are sold and packaged directly in front of buyers in small quantities; and
- c. Products that are sold in bulk.

7. Non-Halal Information

Business actors producing Products that originate from materials that are non-halal are obliged to put the non-halal information, that can be in the form of a picture, sign or in writing in different colors, on: (i) the Products' packaging, (ii) a specific part of the Products, and/or

(iii) a specific place on the Products. This non-halal information must be easy to see and read, hard to erase, remove or tamper with pursuant to the applicable laws and regulations.

8. Stages for Halal Certification

With the consideration of the preparedness of business actors and the infrastructure to implement halal warranties for Products, the Government has set stages for halal certification based on types of product. These stages have been incorporated in Minister of Religious Affairs Regulation No. 26 of 2019 on the Implementation of Halal Product Warranties and continue to be affirmed under GR 39/2021, which are as follows:

Product	Period of Halal Certification
Food and beverage products	17 October 2019 - 17 October 2024
Raw materials, food additives, and auxiliary materials for food and beverage products	17 October 2019 - 17 October 2024
Slaughtered Products and slaughtering services	17 October 2019 - 17 October 2024
Traditional medicine and health supplements	17 October 2021 – 17 October 2026
Over the counter medicine and limited over the counter medicine	17 October 2021 – 17 October 2029
Potent drugs excluding psychotropics	17 October 2021 – 17 October 2034
Cosmetics, chemical products, and genetically modified products	17 October 2021 – 17 October 2026
Goods that are utilized in the category of clothing, headgear, and accessories	17 October 2021 – 17 October 2026
Goods that are utilized in the category of household health supplies, household appliances, Muslim prayer supplies, stationery and office supplies.	17 October 2021 – 17 October 2026
Goods that are utilized in the category of risk class A medical equipment pursuant to the laws and regulation	17 October 2021 – 17 October 2026
Goods that are utilized in the category of risk class B medical equipment pursuant to the laws and regulations	17 October 2021 – 17 October 2029
Goods that are utilized in the category of risk class C medical equipment pursuant to the laws and regulations	17 October 2021 – 17 October 2034
Products in the form of medicines, biological products, and medical equipment the raw materials for which are not sourced from halal materials and/or are not produced in a halal manner, will be certified pursuant to the laws and regulations	

GR 39/2021 constitutes necessary guidance for any business actors prior to distributing their products in Indonesia. However, since the process of obtaining the halal certification will involve several ministries and/or institutions, there are still some issues that need to be further regulated under the institution/ministerial/presidential regulations and therefore, in conducting their business, business actors must take into account such regulations in order to comply with the prevailing laws and regulations in Indonesia.

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