

FURTHER PROVISIONS ON MANDATORY USE OF BAHASA INDONESIA

On 28 October 1928, the representatives of Indonesian youth organizations declared the monumental Sumpah Pemuda or Youth Pledge by which they vowed to recognize only one Indonesian motherland, one Indonesian nation, and one Indonesian language – Bahasa Indonesia. The Youth Pledge is considered as the moment of the birth of Bahasa Indonesia, the official language of Indonesia. Almost 91 (ninety-one) years after the Youth Pledge, the President of the Republic of Indonesia promulgated Presidential Regulation of the Republic of Indonesia No. 63 of 2019 concerning the Use of Bahasa Indonesia ("PR 63/2019" or "**Regulation**"). The Regulation was enacted and became effective on 30 September 2019.

The Objective of PR 63/2019

The Regulation was issued with the objective of carrying out the mandate of Article 40 of Law of the Republic of Indonesia No. 24 of 2009 concerning Flags, Languages, Symbols and National Anthem ("**Law 24/2009**"). Article 40 of Law 24/2009 mandates implementing regulations regarding the obligation to use Bahasa Indonesia, among others, in: (i) official state documents; (ii) memorandums of understanding or agreements; (iii) national or international forums; (iv) official communications within the government and private sector; (v) names of buildings and roads in Indonesia.

The objective of this Regulation should be seen as the Indonesian government's effort to promote Bahasa Indonesia as an identity and a tool for unifying the nation.

What is in the Regulation?

1. State Official Document

By virtue of PR 63/2019, Bahasa Indonesia must be used in state official documents. State official documents include at least: decrees, securities, diplomas, statements, personal identity documents, deeds of sale and purchase, agreements, and court decisions ("State Official Document"). Note that international agreements/treaties are not included as State Official Documents under this Regulation.



Further, such state official documents that are applicable internationally may be accompanied by a foreign language. It is important to note that in the event of a discrepancy in the interpretation of the bilingual official state document, the documents in Bahasa Indonesia must be the main reference.

It remains unclear under this Regulation regarding in what circumstances a document will be deemed as a state official document.

2. Memorandums of Understanding ("MoU") and Agreements

This Regulation has accommodated the concern for foreign parties regarding the use of Bahasa Indonesia and foreign languages in an agreement. By virtue of this Regulation, the national language of a foreign party (or English) can be used as a translation or gloss of the meaning of MoU and agreement with foreign parties.

The parties may state in their agreement or MoU which language will be used as the prevailing language in the event of different interpretation(s) of the agreement or MoU.

However, the Regulation is silent on the application of multiple use of language in an agreement if all of the parties to the agreement are Indonesian.

3. Official Communications in Workplaces within Government and Private Companies

The Regulation also applies mandatory use of Indonesian language as official communication in the workplace both for Government and private companies. Official communication include among others instructions, guidance, negotiations, interviews, correspondence, announcements, meetings, and discussions.

Specifically for official communication with international institutions or foreign state institutions within the Government's or private companies' workplaces, translator or interpreter may be used. The Regulation has not specifically explained how this will apply to foreign institutions other than those regarded as international institutions or foreign state institutions.

4. Mandatory Naming in Bahasa Indonesia.

While the mandatory use of Bahasa Indonesia in names was briefly stated in the Law 24/2009, the newly issued PR 63/2019 provides a greater details of such obligation, including trademarks.

According to PR 63/2019, Bahasa Indonesia must be used in the naming of: (i) geographical features; (ii) buildings, apartments, offices, trade centers; (iii) roads, signs, public facilities; (iv) trademarks owned by Indonesian citizens / Warga Negara Indonesia ("WNI") or Indonesian legal entities; (v) enterprises incorporated or owned by WNI or Indonesian legal entities; (vi) educational institutions incorporated or owned by WNI or Indonesian legal entities; and (vii) organizations which owned or incorporated by WNI.

The above matters are excluded from the obligation to use Bahasa Indonesia, and/or can be accompanied by a foreign language if there are aspects of historical, cultural, customary or religious values in the name.

However, the Regulation has yet to mention what can be considered historical, cultural, customary or religious values.

Meanwhile, in terms of the naming of trademarks, it is advisable to note that the mandatory use of Bahasa Indonesia is excluded for the trademarks that are included in foreign licenses.

Sanctions and Further Regulation

PR 63/2019 does not regulate sanctions imposed on parties who do not comply with the provisions contained in this Regulation. It is worth noting, however, that even though it does not include sanctions, a non-compliance with this regulation does not mean eliminating legal risks that will arise.

The supervision of the implementation of PR 63/2019, i.e. the use of Bahasa Indonesia, will be stipulated in guidelines prepared by the Ministry of Education and Culture.

It is also worth noting that this Regulation is silent on any requirement to adjust documents or names that have been issued or signed prior to the enactment of the Regulation.

Conclusion

In light of PR 63/2019, it is clear that the use of Bahasa Indonesia in the lives of Indonesian citizens will increase. This is in line with the government's goal to strengthen Bahasa Indonesia as the national language and identity. However, we are of the view that further implementing regulations on the mandatory use of Indonesian language are still needed for purposes of clarity and legal certainty.

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