



Legal Update GOVERNMENT REGULATION REGARDING INDUSTRIAL SECTOR

1. Main Legislation

To implement Law No. 11 of 2020 on Job Creation in industrial sector, Indonesian Government has issued Government Regulation No. 28 of 2021 on Implementation in Industrial Sector (“**GR 28**”), which entered into force on 2 February 2021.

2. Definition

Raw Materials shall mean raw materials, semi-finished goods, or finished goods which can be processed into semi-finished goods or finished goods which have a higher economic value.

Auxiliary Materials shall mean materials used as a complement in the production process to produce products which have perfect function according to the expected products parameters.

Industrial Company shall mean any person who carries out activities in industrial business sector and domiciles in Indonesia.

Industrial Estate Company shall mean a company which carries out development and management of Industrial Estate.

Industrial Estate shall mean a concentration area of industrial activities which is equipped with supporting facility and infrastructure developed and managed by the Industrial Estate Company.

3. Utilization of Raw Materials and/or Auxiliary Materials

Each Industrial Company shall utilize the Raw Materials and/or Auxiliary Materials, which shall at least include:

- a. Raw Materials and/or Auxiliary Materials from nature;
- b. Raw Materials and/or Auxiliary Materials from production result;
- c. Raw Materials and/or Auxiliary Materials from by-products; and
- d. Raw Materials and/or Auxiliary Materials from recycled products.

List of types of Raw Materials and/Auxiliary Materials could be seen in attachment of GR 28. These types of Raw Materials and/or Auxiliary Materials shall be prioritized for domestic industrial necessity. Industrial Company shall prioritize the utilization of domestic Raw Materials and/or Auxiliary Materials.

4. Easiness to Obtain Raw Materials and/or Auxiliary Materials

The Central and Regional Government shall ensure the following:

- a. Availability of Raw Materials and/or Auxiliary Materials sourced from domestic or abroad for Industrial Company; and

To ensure the availability of Raw Materials and/or Auxiliary Materials, Central Government could conduct: (i) prohibition or restriction on the export of Raw Materials and/or Auxiliary Materials; and (ii) granting import facilities of Raw Materials and/or Auxiliary Materials.

- b. Distribution of Raw Materials and/or Auxiliary Materials within Indonesia.

5. Commodity Balance

With regards to ensure the availability of Raw Materials and/or Auxiliary Materials, Central Government sets out commodity balance which consists of complete, detailed and accurate data regarding necessity and supply of Raw Materials and/or Auxiliary Materials for domestic industry. Commodity balance shall be stipulated for period of 1 (one) year.

Stipulation of commodity balance shall be based on:

- a. Industrial necessity plan for period of 1 (one) year, which shall be composed based on each Industrial Company's proposal of necessity of Raw Materials and/or Auxiliary Materials submitted electronically to Minister in industrial sector ("**Minister**") through National Industrial Information System (*Sistem Informasi Industri Nasional* or "**SIINas**"); and
- b. Detailed data of supply of Raw Materials and/or Auxiliary Materials, which shall be delivered quarterly by the Minister and the related authorized officials through integrated information system.

6. Import of Raw Materials and/or Auxiliary Materials

Import of Raw Materials and/or Auxiliary Materials can only be done by Industrial Company which have Business Identification Number (*Nomor Induk Berusaha* or "**NIB**") applicable as Producer Importer Identification Number (*Angka Pengenal Importir Produsen* or API-P).

The Industrial Company shall be prohibited to sell or transfer its imported Raw Materials and/or Auxiliary Materials, failing which, the Industrial Company shall be subject to the following administrative sanction: (i) written warning; (ii) administrative fine; (iii) freezing of NIB; and/or (iv) revocation of NIB.

7. Supervision over Raw Materials and/or Auxiliary Materials

The Central Government shall supervise the following:

- a. The utilization of Raw Materials and/or Auxiliary Materials by Industrial Company; and
- b. Export of Raw Materials and/or Auxiliary Materials.

8. Industrial Standardization

Central Government shall implement planning, guidance, development, and supervision on Industrial Standardization, which shall be implemented in the form of Indonesian National Standard (*Standar Nasional Indonesia* or "**SNI**"), Technical Specification, and/or Procedural Guidelines.

SNI, Technical Specification, and/or Procedural Guidelines shall cover standard and/or document for processing industrial goods and/or services with Indonesian Business Field Standard Classification (*Klasifikasi Baku Lapangan Usaha Indonesia* or "**KBLI**") 10 up to KBLI 33.

Approval on usage of SNI sign or conformity sign shall be granted by Minister to Industrial Company which has fulfilled the requirement of SNI, Technical Specification, and/or Procedural Guidelines which has been imposed mandatorily.

Appraisal on conformity towards SNI, Technical Specification, and/or Procedural Guidelines which is imposed mandatorily shall be carried out by conformity appraisal board which has been accredited in accordance with its scope and appointed by the Minister.

The conformity appraisal board shall consist of: (i) product certification board; (ii) test laboratory; and (iii) inspection board.

9. Public Society Participation in Industrial Development

Public society could participate in planning, execution, and supervision of industrial development. The public society are as follows: (i) individuals; and/or (ii) group of people in the form of legal entity having interest in improvement of national industrial development.

The public society shall meet the following criteria: (i) Indonesian citizen; (ii) have knowledge background in industrial sector; and (iii) have expertise in industrial sector.

Public society participation in industrial development shall be implemented in the form of: (i) giving advice, opinion, and suggestion; and/or (ii) delivering information and/or report.

10. Supervision and Control on Industrial Business Activity and Industrial Estate Business Activity

Central Government shall carry out supervision and control on industrial business activity and industrial estate business activity. Supervision and control shall be conducted to know the fulfilment and the compliance to regulations in industrial sector conducted by Industrial Company and Industrial Estate Company. The supervision shall be done: (i) periodically at least annually with risk management; and/or (ii) specifically based on reports from business actors, public society, and/or evaluation result.

Risk management shall be conducted through:

- a. Monitoring of self-assessment result;
- b. Determination of risk possibility level;
- c. Identification of risk level, which consists of: (i) low risk; (ii) medium risk; and (iii) high risk;
- d. Risk analysis; and
- e. Risk evaluation, which consists of: (i) risk priority; and (ii) risk mitigation.

Supervision and control system shall be conducted electronically and integrated through SIINas.

11. Industrial Data and Industrial Estate Data

Industrial Company and Industrial Estate Company shall submit accurate, complete, timely and continuing industrial data and industrial estate data, as relevant, periodically to the Minister and other relevant government officials through SIINas. Industrial data ("**Industrial Data**") shall consist of industrial data in the stage of: (i) development; and (ii) production. Industrial estate data shall consist of industrial estate data in stage of: (i) development and (ii) commercial.

12. Business Licensing for Industrial Business Activity and Industrial Estate Business Activity

Any industrial business activity and industrial estate business activity shall fulfil business licensing from Central Government.

Industrial business activity shall be classified into: (i) small industry; (ii) medium industry; and (iii) large industry.

Industrial company which will carry out industrial business activities shall be located in an Industrial Estate.

Industrial company with high risk business level and Industrial Estate Company shall fulfill technical commitment of: (i) business licensing for industrial business activity; (ii) business licensing for industrial estate business activity; and/or (iii) business licensing for expansion of industrial estate business activity.

Technical commitment of business licensing for industrial business activity shall be as follows:

- a. Ownership of SIINas account and obligation to submit Industrial Data through SIINas;
- b. Completion of establishment of industry facility and infrastructure or readiness of the Industrial Company to produce commercially;
- c. Conformity of the proposed KBLI with the industrial business activity which is performed;
- d. Conformity of proposed production capacity with the installed capacity;
- e. Conformity of proposed business scale with industrial activity which is performed;
- f. Fulfilment of investment requirement for business field as regulated under the prevailing laws and regulations regarding positive list; and
- g. Fulfilment of requirement for certain industrial type which is performed in accordance with the prevailing laws and regulations.

13. Administrative Sanction

Industrial Company and Industrial Estate Company which do not comply with certain provisions under GR 28 shall be subject to the following administrative sanction: (i) written warning; (ii) administrative fine; (iii) temporary closure; (iv) freezing of business licensing; and/or (v) revocation of business licensing.



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