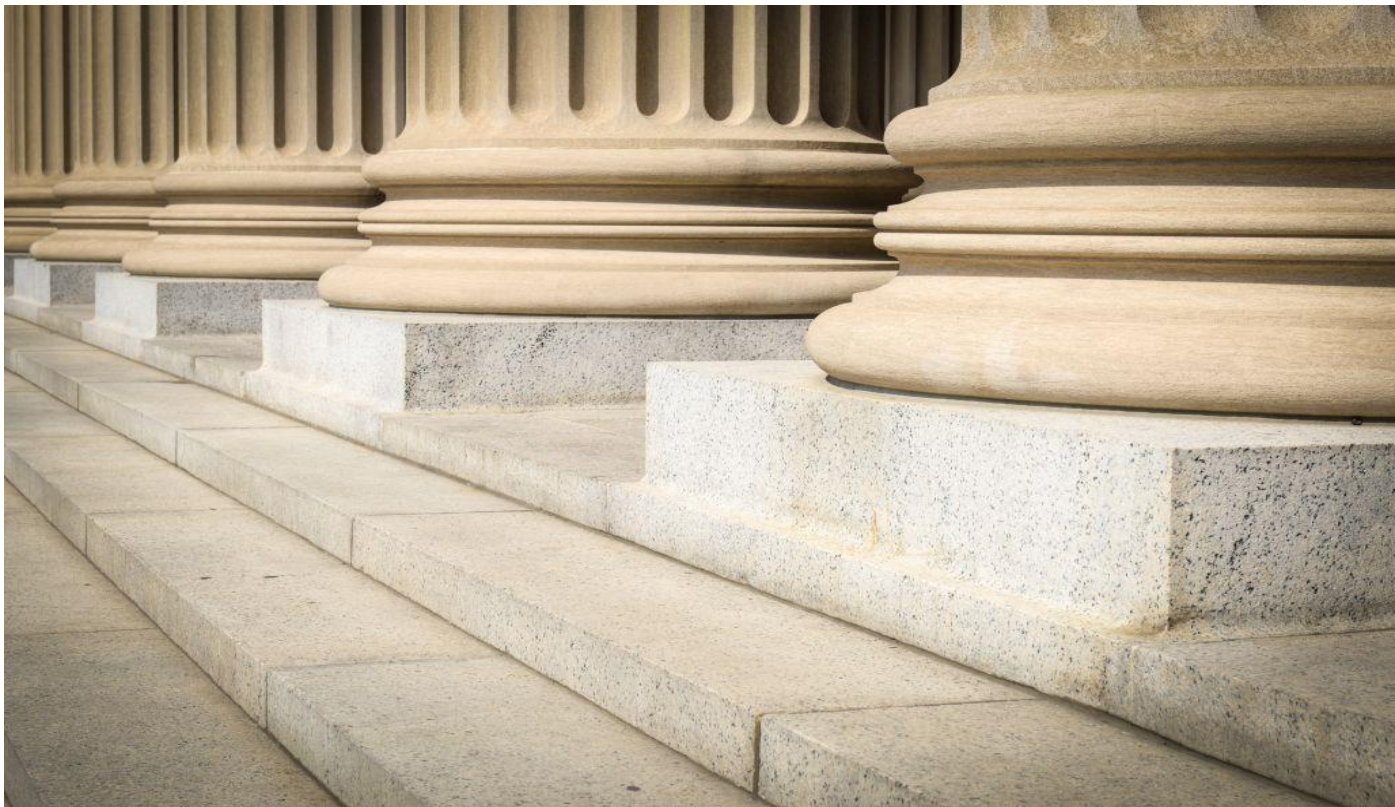


## GES NewsFlash

# Recent Changes in Immigration – Ministry of Manpower Regulation No.16 of 2015



### Background

The Indonesian Ministry of Manpower (“MoM”) recently issued a new Regulation No.16/ 2015 replacing the previous MoM Regulation No.12/2013, regarding General Procedures and Requirements for Employing Expatriates in Indonesia. This new regulation provides a more detailed list of the types of activities that require a work permit which were not stated under the previous regulation.

In addition, the ratio of expatriate employees to Indonesian national employees is now formally regulated by the MoM.

### Changes

Summarized below are the changes:

NO	DESCRIPTION	MoM No.12/2013	MoM No.16/2015
1.	<b>Expatriate to National Employee Ratio</b>	Not specifically regulated by MoM.	<p>Need to have at least 10 Indonesian national employees for every 1 expatriate employee.</p> <p>The above requirement is not applicable for certain positions and/or circumstances, such as:</p> <ul style="list-style-type: none"> <li>• Directors, Commissioners</li> <li>• Expatriate who is employed for urgent and emergency work</li> <li>• Expatriate who is employed for temporary work</li> </ul> <p><u>Note:</u></p> <p>Urgent and emergency work is work that requires immediate action and if it is not handled urgently, it will cause fatal losses for the company and/or the general public.</p>
2.	<b>Foreigner Manpower Utilization Plan (“RPTKA”) for Work under Temporary Classification</b>	<p>The RPTKA is granted for the following work circumstances:</p> <ol style="list-style-type: none"> <li>1. One time job only; or</li> <li>2. Work related to machine installation, electrical, after sales services, or for product under assessment period</li> </ol>	<p>The RPTKA is granted for the following work circumstances:</p> <ol style="list-style-type: none"> <li>1. Providing guidance, counseling, and training in the application and innovation of the technology for the purpose of improving the quality and design of the products for the export market; or</li> <li>2. Commercial film production which has been granted approval by the relevant government agencies; or</li> <li>3. Giving a lecture; or</li> <li>4. Attending meeting with representative/branch office in Indonesia; or</li> <li>5. Conducting audit or inspection of a branch in Indonesia; or</li> <li>6. Expatriate who is still under probation period with the company; or</li> <li>7. One time job; or</li> </ol>

NO	DESCRIPTION	MoM No.12/2013	MoM No.16/2015
			8. Work related to machine installation, electrical, after sales services, or for product under assessment period.
3.	<b>Qualifications and Requirements of Expatriates</b>	<ol style="list-style-type: none"> <li>1. Education background that is relevant to the position applied for;</li> <li>2. Holding certificate of competency or having at least 5 years of working experience;</li> <li>3. A statement letter for transfer of knowledge to the local understudy; and</li> <li>4. Able to communicate in Bahasa Indonesia.</li> </ol>	<ol style="list-style-type: none"> <li>1. Education background that is relevant to the position applied for;</li> <li>2. Holding certificate of competency or having at least 5 years of working experience;</li> <li>3. A statement letter for transfer of knowledge to the local understudy, which should be supported by a report on implementation of education and training;</li> <li>4. Tax ID registration for expatriate who has worked more than 6 months in Indonesia;</li> <li>5. Expatriate must undertake insurance coverage with an Insurance company in Indonesia; and</li> <li>6. Enroll with Indonesia social security program ("BPJS") for those expatriates who have worked in Indonesia for more than 6 months.</li> </ol>
4.	<b>Work Permit ("IMTA") for non-resident directors and commissioners</b>	Not regulated	<ul style="list-style-type: none"> <li>• Must apply for IMTA for the non-resident directors and /or commissioners of the Indonesian Company</li> <li>• IMTA for members of the board of directors, commissioners, or management ("pengurus") can be granted for a maximum of 2 years and is renewable.</li> </ul>
5.	<b>Work Permit ("IMTA") for Expatriate Working under Temporary Classification or Urgent and Emergency Role</b>	Not regulated	The Company must first obtain an approved RPTKA for the specific purpose and then proceed to apply for the respective IMTA.

This regulation does not specify any transitional period; hence, it should be in force immediately as of the issuance date of 29 June 2015. However, based on informal information from MoM, this regulation will be implemented after the MoM has conducted a socialization event with the employers.

### **Deloitte's View**

It is still unclear whether under this new regulation, the 1 to 10 ratio is applicable to all industries and business sectors, including representative offices, which usually do not have many employees (generally less than 10 people).

Also unclear is whether the members of the board of directors and commissioners who are non-resident are required to register for tax ID in Indonesia and consequently could be subject to income tax in Indonesia even though they are not residing in Indonesia.

Companies are still awaiting the MoM socialization event to seek further clarification on this new regulation.

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