



Architects' Law

by Pratiwi Widyastuti



The House of Representatives has legalized Law No. 6 of 2017 regarding Architects on August 8, 2017. This regulation is expected to provide a legal basis for, and certainty to architects, the service users of architects, and the public. The Minister of Public Works and Public Housing, Basuki Hadimuljono, hopes that this legislation is able to respond to people's needs in the design world.

Moreover, Architects' Law aims to achieve an increase in the contribution of architects to national development through expertise and scientific advances, and enhancement of the role of architects in realizing the implementation of development, advanced technology, and design. Last, but not least, it responds to the demand of architects to realize eco-friendly development in the maintenance and development of Indonesian culture and civilization.

The urgency of the issuance of an Architects' Law is because Indonesia has lacked clarity in the area of construction services. It is imperative that architects play a role in the enforcement of construction services.

The validation of Architects' Law also completes regulations that had been made previously, such as Law No. 2 of 2017 regarding Construction Service Law, Law No. 28 of 2008 regarding Building Construction Law, and Law No. 11 of 2014 regarding Engineering Law.

In order to improve the calibre of architects, this law, furthermore, governs the requirements for being an architect. First, an architect must hold a Letter of Registration Mark of an Architect ("STRA"). To obtain STRA, the candidates must intern for at least two years and have work experience of a minimum of ten years. Secondly, an architect needs to have a License issued by provincial government.

Further, Architects' Law also governs the architecture profession in relation to society and foreign architects. Foreign Architects must fulfill competency and licensing requirements. They must demonstrate they can transfer skills and knowledge. They have the same rights and obligations as local architects.

Under this regulation, architects are allowed to formally register their creations. This security of intellectual property is very important to those who work in the design world.

To guarantee the quality and accountability of those in the profession, architects must subscribe to an independent Professional Organization, which connects to local and international networks.

Payment Postponements for Import and Export Duty Debt and Administrative Sanctions

by Margareth Nita Gunawan

The Regulation of Minister of Finance of the Republic of Indonesia No. 122/PMK.04/2017 (“**MoF Regulation No. 122/PMK-04/2017**”) regarding Payment Postponements for Import and Export Duty Debt and/or Administrative Sanctions in the Form of Fines has recently been promulgated. MoF Regulation No. 122/PMK-04/2017 aims to optimize the acceptance of import-export duty debt and further provides legal certainty, as well as providing convenience in the repayment of debt, customs, and duties. It also stipulates amended provisions regarding postponement of payment of import-export duty debt, and administrative sanctions in the form of fines.

The payment postponement facility can be granted to: 1) Import or export duty debts, insufficient import or export duty payments and/or related fines and 2) Outstanding payable import duty and/or related fines.

Parties who have a delay of payment of import-export duty debt and/or administrative sanctions in the form of fines may be granted a deferred payment by way of postponement of the period, or gradual payment. That payment shall be made by way of repayment in one instalment. Delay of payment may be granted to the applicant who is dealing with financial difficulties by considering the ability of the applicant to pay its debts, by conducting research on the financial statement and credibility of the applicant.

Application for delayed payment shall be submitted no later than 20 (twenty) days before the due date of the determination. Upon request for delayed payment, the Director General will either approve or reject it within maximum period of 15 (fifteen) days from the date the complete and correct application is received.

In the event that the payment deferral request is approved, the following is published on behalf of the Director General:

- The decision of the Director General regarding the granting of a deferred payment which shall be in the form of the withdrawal of payment terms
- The decision of the Director General regarding the granting a postponement of payment which is in the form of payment in stages



This decision provides an obligation to the applicant to submit a guarantee in the form of bank guarantee or customs bond. The amount of guarantee must be equal to the invoice plus interest on the delay.

In the event that the payment deferral request is rejected, a notice of rejection accompanied by the reasons for refusal shall be submitted on behalf of the Director General.

The decision of the Director General to declare a postponement of payment shall be declared null and void in the event that the decision of the Director General concerning the granting of a deferred payment is revoked or the entire bill has been paid off.

The revocation of the Director General's decision regarding the granting of a deferred payment shall be made in the event that:

- The guarantee is not submitted until the due date of the letter of appointment;
- The applicant does not settle the bill until the deadline for the delay;
- The applicant does not pay the installments in accordance with the amount or time that has been set; or
- The applicant has been declared bankrupt by the commercial court.

This Ministerial Regulation came into force on 6 October 2017 and repeals and replaces MoF Regulation Number 26/PMK.04/2008, article 17 to article 23 MoF Regulation Number 214/PMK.04/2008, as amended by MoF Regulation Number 146/PMK.04/216.

Presidential Regulation No. 91 of 2017 on the Acceleration of Business Operations

by Fakhry Aziz



On September 26, 2017, the Government issued Presidential Regulation No. 91 of 2017 concerning the Acceleration on Business Operation (“**PR 91/2017**”) as part of its 16th Economic Policy Package to date, with the ultimate goals of reorganizing the current business licensing regime (“**Business Licensing**”) and accelerating business operations within Special Economic Zones, Free-Trade Areas and Free Ports, Industrial Zones, and Nationally Strategic Tourism Areas (“**The Business Areas**”). PR 91/2017 specifically addresses two stages in regards to the acceleration of business operations.

The first stages are: (i) formation of a Task Force; (ii) the implementation of Business Licensing in the form of a checklist within the Business Areas; and (iii) the implementation of Business Licensing by using data sharing and delivery of non-recurring activities conducted outside the Business Areas.

The second stage consists of regulatory licensing reform and an electronically integrated business licensing system (online single submission).

The Task Force’s main duties are to improve services, supervision, barrier resolution, simplification, and development of online systems in order to accelerate the settlement of Business Licensing. They also consist of a National Task Force,

Ministry/Institution Task Force, Provincial Task Force, and Regency/City Task Force.

To obtain a Business License within a Business Area, entrepreneurs must apply for Registration of Capital Investment (“**Investment Registration**”) by completing the checklist and submitting certain documents as required in this regulation; such application shall be valid as a Temporary Business License, after being registered by each of the competent authorities (“**The Authorities**”) to the Task Force based on their type of Business Area. The entrepreneur must begin the construction implementation no later than 90 (ninety) days after the registration has gone through. If the entrepreneur meets all the requirements, the Authorities will then issue the Business License.

If the entrepreneur outside the Business Areas applies for a Business License to the authorities and meets all the requirements stated for any specific business license, then the authorities will issue the Investment Registration as one of the requirements for obtaining a construction permit. This is conducted by the use of data sharing methods based on business licensing standards in accordance with the regulations. PR 91/2017 also allows entrepreneurs both within and outside the Business Areas to submit a dissatisfaction complaint regarding the Business Licensing process to the Task Force through the complaint service.

Moreover, the minister/head of institutions, governor and regent/mayor shall evaluate the entire legal basis for the implementation of the Business Licensing process given their authority, including for SMEs. They must then amend and harmonize its provisions no later than November 30, 2017 as well as implement the online technology information basis for the Business Licensing. The Minister/head of institutions, governor and regent/mayor must also conduct the Business Licensing process through the online single submission method, which will be tested on January 1, 2018 for the first time. Administrative sanctions shall be imposed by the Minister of Home Affairs (“**MHA**”) to the governor who does not provide services and / or issue the Business Licensing according to this regulation. The regent/mayor who does the same shall also have administrative sanctions imposed by the governor, in which case the MHA and the governor would take over the authority to issue Business Licenses.

Implementation of the National Payment Gateway

by Eduardy Armandana Eddin



On 20 September 2017, Bank Indonesia's Board of Governors issued Regulation No. 19/10/PADG/2017 regarding the National Payment Gateway ("**Governors' Regulation No. 19/2017**"). In respect of the implementation of the Bank Indonesia ("**BI**") regulation No. 19/8/PBI/2017 regarding the Payment Gateway ("**BI Regulation No. 19/2017**") it was deemed necessary to stipulate comprehensive detail to complement and further regulate the implementation of the National Payment Gateway ("**NPG**") in the form of Governors' Regulation No. 19/2017.

The NPG is defined as a system, which consists of standards, switching and services to integrate payment instruments and channels nationwide. NPG Has 2 (two) key objectives (i) the interconnectivity of all existing payment channels; and (ii) the inter-operability of various payment instruments which currently exist and are used in Indonesia. It also supports government programmes such as non-cash transactions in Indonesia, inclusive national financial strategies, toll road electronics and efficiency of the national economy.

BI establishes a national branding policy consisting of national logos, national acceptance expansions, and domestic processing obligations. Furthermore, BI requires the use of national

logos on every published instrument and payment channel used in domestic payment transactions through NPG. Banks institutions which are acting as connected parties to the NPG are required to feature national logos upon all their card-based payment instruments.

Governors' Regulation No. 19/2017 sets pricing policy to ensure interconnectivity and inter-operability in the NPG ecosystem. The pricing schemes should be implemented by NPG organiser and switching organiser, which cooperates with switching institutions and connected parties. Based on article 45 (2) Governor's Regulation No. 19/2017, there are various pricing schemes which include (i) sharing infrastructure (ii) terminal usage fees ("**TUF**"); and (iii) merchant discount rates ("**MDR**").

The pricing scheme for debit cards is MDR. For transaction made through a payment canal of a card issuer ("**On Us**") the applied MDR is 0,15% and all MDR will be accepted and become the acquirer's income. Moreover, for transactions made through the payment canal of a different card issuer ("**Off Us**") the applied MDR is 1% and is to be distributed to connected parties (i) Issuers; (ii) acquirers; (iii) switching Institutions; and (iv) standard institutions.

Based on the Governors' Regulation No. 19/2017, the pricing scheme for Electronic Money is divided based on activity, as follows:

- a. Electronic Money pricing scheme for purchase transactions:
 - (i) TUF, the prices is set at 0.35%;
 - (ii) sharing infrastructure, the prices is determined by parties who invest in infrastructure;
 - (iii) MDR, the prices will be set apart by BI;
- b. Electronic Money pricing scheme for Top Up transactions:
 - (i) Top Up On US, any amount up to IDR200.000,- is free, while for an amount above IDR200.000,- a maximum of IDR750,- can be charged.
 - (ii) Top Up Off Us can be charged at a maximum of IDR1.500,-.

Furthermore, the above-mentioned pricing scheme was effective 1 (one) month after Governors' Regulation No. 19/2017 was issued, except for Top On Us, which will be applied after the refinement of the provision of Electronic Money.