

IMPLEMENTING REGULATION FOR THE IMMIGRATION LAW

Jul 17, 2013

Two years after the issuance of Law No. 6 of 2011 on Immigration (“Immigration Law”), its implementing regulation i.e. Government Regulation No. 31 of 2013 on The Implementation of Law No. 6 of 2011 on Immigration (“Reg. 31/2013”), was issued in order to provide further details on certain Articles of the Immigration Law. Reg. 31/2013 came into effect on 16 April 2013.

Visas

There are four types of visas under Reg. 31/2013: (i) diplomatic visas; (ii) official service visas (for members of government and international institutions, for non-diplomatic purpose); (iii) visit visas; and (iv) limited stay visas. These visas must be used within 90 days. However, multiple-entry diplomatic visas, official service visas, and visit visas are valid for 12 months as of the issuance date.

Visit visas may be issued to foreign citizens who enter Indonesia for governmental, educational, socio-cultural, tourism, business, family, journalistic, or transit purposes. Visit visas are usually issued for a single visit, but may be for multiple exit-reentry if the visit is for government work, business, or family matters. Visit visas can be issued to foreign citizens from certain countries on arrival at certain Immigration Checkpoints or special economic zones. This will be regulated further in a minister regulation. In addition, foreign citizens (i) from certain countries to be listed under a presidential regulation; and (ii) who are ship captains, pilots, and crew of Transportation Vehicles, do not require a visit visa to enter Indonesia.

Limited stay visas are issued to foreign citizens who enter Indonesia for either work related or non-work related purposes. Those entering for work related purposes include, among others: experts; crew working on boats, floating devices or facilities operating in national waters, on territorial seas or the continental bed or Exclusive Economic Zones; missionaries; professional related activities which they are paid for; medical practitioners; non-permanent workers for construction works; musical concerts, cultural and sports events; potential foreign manpower for expertise testing; etc. Non-work related purposes include: foreign investment activities, scientific research and training, studying, family gatherings, repatriation, and elderly tourists.

Limited stay visas can only be issued on arrival at certain Immigration Checkpoints to foreign citizens who enter for work related purposes, for foreign investment activities, or scientific research and training. This limited stay visa on arrival is only valid for one month.

Stay Permits

All foreign citizens residing in Indonesia should be issued a Stay Permit according to their Visas: (i) diplomatic Stay Permit; (ii) official service Stay Permit; (iii) visit Stay Permit; (iv) temporary Stay Permit; and (v) permanent Stay Permit. Only one of each type may be issued. However, the following foreign citizens do not require a Stay Permit: (a) those currently being held in detention for investigation, prosecution, and court examination or in jail because their Stay Permit has expired; (b) those permitted to be outside the Immigration Detention House under applicable Laws; and (c) those in Indonesia due to human trafficking.

Visit Stay Permits may be issued to foreign citizens holding visit visas, those exempt from requiring a visa (30 days, not extendable), those currently in Indonesia for emergencies (30 days), crews of Transportation Vehicles (60 days, not extendable), or to children born in Indonesia whose parents hold visit visas (the same time limit as their parents). A Visit Stay Permit is valid for 60 days as of the Date of Entry and only for 1 trip. It is extendable up to 4 times, each extension being for 30 days. However for multiple exit-reentry visit visas, the Visit Stay Permit is not extendable. For visiting visas on arrival, Stay Permits are issued for 30 days and may be extended once for another 30 days.

Limited Stay Permits (KITAS) may be issued to, among others, foreign citizens with a limited stay visa, children born in Indonesia whose parents hold limited stay visas, to foreign citizens who were previously Indonesian citizens, etc. A KITAS remains valid for two years, extendable for two years, but the total stay period must not exceed 6 years. For foreign citizens entering Indonesia for work related purposes, the KITAS is valid for 90 days and is extendable for 30 days, but the total stay period must not exceed 180 days. For a limited stay visa on arrival, the Stay Permit is issued for 30 days and is not extendable.

Permanent Stay Permits (KITAP) may be issued to, among others, foreign citizens with limited Stay Permits who are missionaries, employees, investors, or elderly, to family members of mixed marriages, to spouses and children of Permanent Stay Permit holders, to foreign citizens who were previously Indonesian citizens, to children with dual nationality who choose to be Indonesian, etc. A Permanent Stay Permit is valid for five years and is extendable for as long as the Stay Permit is not cancelled. Foreign citizens holding a KITAP must report to the local Immigration Office every five years.

Reg. 31/2013 also allows the status of a Stay Permit to be changed in certain circumstances. These changes will be further regulated under a ministerial regulation.

Under the Immigration Law, the holder of an KITAS or KITAP who has obtained that permit because of his/her marriage with an Indonesian citizen, is permitted to work in Indonesia in order to support his/her family. Therefore, upon obtaining the new KITAS or KITAP, we believe the holder may start working in Indonesia for his/her employer. According to Reg. 31/2013, a foreign citizen with an KITAS may work in Indonesia for 90 days (extendable up to 180 days) while for an KITAP holder, his/her KITAP is valid for up to 5 years.

Nevertheless, the Immigration Law and Reg. 31/2013 are relatively new in Indonesia and the requirements to obtain a work permit under the Manpower Law and its implementing regulations are still in force. As such, the implementation of Reg. 31/2013 is still somewhat uncertain. Further research to the Manpower and Immigration Office will be needed to check relevant issues explained above. Visas, KITAP or KITAS are under the authority of the Immigration Office; work permits for foreign employees are handled by the Ministry of Manpower.