

INDONESIA

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Workforce adaptation to the new normal

Rainer Faustine Jonathan and Setyaning Kartika Rini of WP Laws consider the lasting effect of the COVID-19 pandemic on workplace practices, including work-from-home policies and permissible reasons for employment termination

Entering the third year since the first COVID-19 outbreak, the unprecedented pandemic has dramatically affected business operations across the globe. Changes in working environments, the rush to optimise efficiency, and pressure from government policies to battle the disease have compelled businesses to adapt, including reimagining their workplace and employment relations.

Changes in working policies

Constant changes in government policies restricting public activity have made the argument for reassessing the working environment. Benefitting from the rapid development of technology, most offices have successfully adopted work-from-home (WFH) or hybrid working systems, where businesses combine WFH and work-from-office (WFO).

Over the past two years, businesses have begun to adopt varied permissible WFH locations. These changes entail several adjustments, including replacing any transportation allowance with internet and phone allowances and meal allowances with vitamins, or additional budget for medical reimbursement. Meanwhile, for those working from the office, it is now customary for companies to require employees to take regular COVID-19 tests before entering the company's premises.

To date, Indonesian regulations do not authorise employers to mandate their employees to get the COVID-19 vaccination. However, to support the success

of the government's vaccination program, it is not uncommon for Indonesian companies to require new hires to get the COVID-19 vaccination or to offer rewards to employees willing to be fully vaccinated.

Some companies have temporarily adopted the necessary changes to adapt to the latest government policies, whilst others have adopted the new working system permanently. Either way, to make the newly adopted policies legally binding, businesses must incorporate these changes into the employment agreement or the company regulation / collective labour agreement.

Employment termination

Adjustments to working policies and employment terms might help businesses to endure. Nevertheless, employment termination can be inevitable in certain circumstances. In doing so, it is essential for employers to carefully assess the basis of the termination to minimise the risk of being sued for wrongful termination.

Employment termination solely due to an employee's infection with COVID-19 is not permissible. Amid the pandemic, employment terminations happened for a variety of reasons, including an attempt to increase efficiency due to financial losses, business closures, bankruptcy or a suspension of debt payment obligation (PKPU), or the violation of the prevailing employment agreement / company regulation / collective labour agreement, particularly on new pandemic-related policies.

The use of foreign workers

Foreign workers as investor representatives in Indonesia are essential for supervision and decision-making purposes. The Government has just recently re-opened the issuance of a new Foreign Workers Utilisation Permit (*Rencana Penggunaan Tenaga Kerja Asing* – RPTKA), the prerequisite permit required for businesses to hire expatriates and to apply for the stay permit, after suspending the issuance of new RPTKA since early of 2020.

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