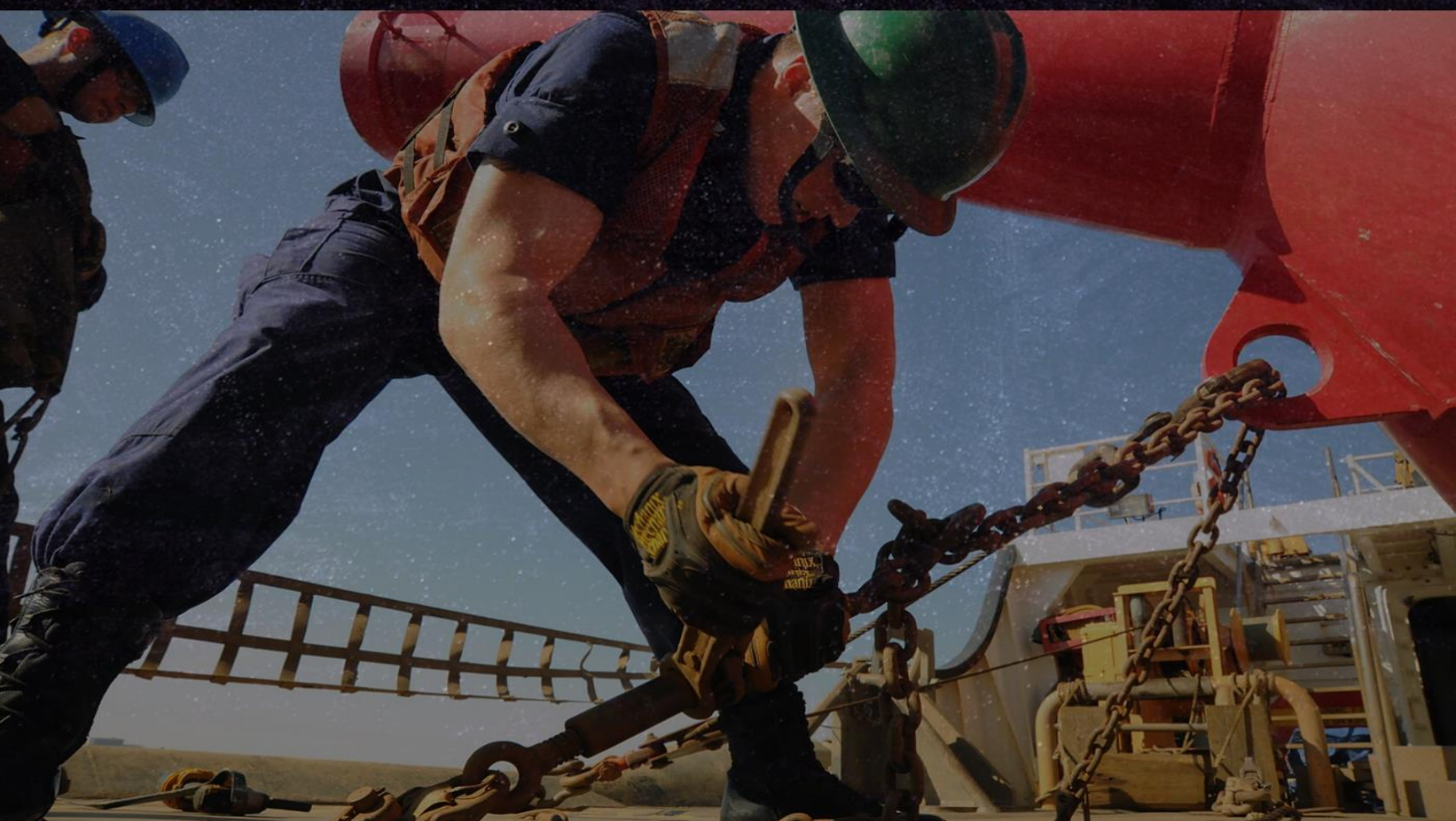




MAGNUS  
LAW OFFICES

*Beyond Legal  
Solutions*

*Omnibus Law*  
*Series :*  
EXPATRIATES  
2021







**MAGNUS**  
LAW OFFICES  
on Law, as the following:

# LEGAL TALKS

*Beyond Legal Solutions*

## MAGNUS LAW OFFICES

### CONTACT DETAILS

-  +62 21 29398927
-  [info@magnuslaw.co.id](mailto:info@magnuslaw.co.id)
-  [www.magnuslaw.co.id](http://www.magnuslaw.co.id)
-  [Magnus Law Offices](#)

### **Analysis on The Implementing Regulation of Job Creation Law on Manpower**

Through the enactment of Law No.11 of 2020 on Job Creation (“**Job Creation Law**”), the Indonesian Government have released 44 Government Regulations and 5 Presidential Regulations as implementing regulations of the Job Creation Law.

This Legal Talks Series shall discuss the general provisions stipulated under the Law No.13 of 2003 on Manpower section of the Job Creation Law (“**Manpower Law**”). With respect to

expatriates, the Government have enacted implementing regulation, as follow:

### **Government Regulation No. 34 of 2021 on Utilization of Expatriates (GR 34/2021)**

GR 34/2021 lays emphasis for expatriate employers to prioritize the utilization of local Indonesian employees for certain positions with due regard to domestic labor market conditions. Expatriates hired by an employer may only work in specific positions dan for specific periods, as well as having the skills and competence to fill such position. Furthermore, the employer may also employ an expatriate who is currently employed by other employers for the same position, among others:

- a. Director or Commissioner; or
- b. Foreign Employees / Expatriates in the vocational education and vocational training sectors, digital economy sector, cooperation contract contractors in the oil and gas sectors.

For the purpose of point 2 above, the employer must first obtain a Foreign Expatriate Utilization Plan (*Rencana Penggunaan Tenaga Kerja Asing* or “**RPTKA**”) issued by the Minister of Manpower or an authorized/appointed government officer. Furthermore, the employer must also obtain the approval of the initial employer. The employer shall also appoint a dedicated employee for the expatriate for the purpose of technology transfer and knowledge transfer from the expatriate and must have carried out job education and training.

The application for RPTKA requires the expatriates' Information and Documentations relating to the works which shall further be assessed with respect to its eligibility and verified by the Minister of Manpower or authorized/appointed officer prior to the issuance of its validation. The assessment of application eligibility is exempted for applications submitted by government institutions, representatives of foreign countries, and international agencies. The issuance of RPTKA validation may be utilize as a recommendation to obtain visa and working stay permit for the expatriates.

The employer shall be obligated to pay a Compensation for Utilization of Foreign Workers (*Dana Kompensasi Penggunaan Tenaga Kerja Asing* or "**DKPTKA**"), in accordance to the expatriate's working period in Indonesia. However, such requirement is exempted for Governmental institutions, foreign representatives, international agencies, social organizations, religious institutions, and specific positions in academic institutions.

Validation of RPTKA as mentioned above are divided under the following categories:

- a. RPTKA for temporary works;
- b. RPTKA for works with a duration of more than 6 (six) months;
- c. RPTKA for non-DKPTKA; and
- d. RPTKA for Special Economic Zone.

The above validations are exempted for Directors and Commissioners with certain shareholding ownerships; diplomatic employees and consular staffs at a foreign country representative office, or for foreign workers required by an employer for production activities which was stopped for emergency reasons, vocation, technology-based startup companies, business visits, research for a certain time period.

Positions that are restricted for expatriates are, among others:

- a. Foreign workers are restricted from having multiple positions within the same company;
- b. Positions in charge of personnel matters/Human Resources division. Nevertheless, in some instances, exemptions may be applied by the Minister upon receiving approval from the Ministry or from the relevant Governmental Institution.

\*\*\*\*\*

Jakarta, 12 April 2021

**MAGNUS LAW OFFICES**

For further information please contact Pascal A. Hutasoit ([pascal@magnuslaw.co.id](mailto:pascal@magnuslaw.co.id)) or Gilang Mursito Aji ([aji@magnuslaw.co.id](mailto:aji@magnuslaw.co.id)).

*Disclaimer:*

*This publication is the property of Magnus Law Offices and may not be used by any other party for any purpose whatsoever without first obtaining prior written consent from Magnus Law Offices.*

*The information contained herein is for general purposes only and is not offered as legal or any other advice on any particular matter, whether it be legal, procedural or otherwise. It is not intended to be a substitute for reference to the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any information provided. Accordingly, Magnus Law Offices accepts no liability of any kind in respect of any statement, opinion, view, error, or omission that may be contained in this legal update.*