

OMNIBUS LAW IN INDONESIA

INTRODUCTION

The Omnibus Law is written to amend 76 existing laws and eliminate 4,451 central government regulations and 15,965 regional government regulations. The changes are intended to stimulate domestic and foreign investment by improving the ease of doing business in the country with a more streamlined system, for example, to minimise overlapping regulations across government agencies at the Central Government or District Government. It covers a range of issues related to doing business in Indonesia, including employment law, government bureaucracy and environmental permits. This report highlights the key amendments related to the food industry and their potential impacts & opportunities on the food & beverage sector.

The Omnibus Law aims to streamline the country's complex business, labour and environmental regulatory environment to attract foreign investment. For example, changes are made to food and agricultural policies to remove the 30% cap on foreign entity's stakes in plantation, horticulture and livestock businesses.

The Law was signed by the President and has the full force of law from 2 November 2020. The Law provides the foundation of the changes and the details to the changes and implementation is to be provided in the Government Regulations. It is expected that 40 Government Regulations and 3 Presidential Decrees are to be passed within the next 3 months from the date where the Omnibus Law was signed.

The Law places Central Government as the body to oversee the implementation of the regulations and the Central Government has the authority to set standards and criteria for the regulations. The centralisation in a way simplifies and brings consistency to the regulations at ministerial-level and local-level. The Law also brought the integrated and simplified business licensing system under the purview of the Central Government, amongst other changes introduced through the Omnibus Law.

The Omnibus Law aims to increase market competitiveness and ease of doing business in the country through the streamlining of existing regulations to open up more opportunities for investment. While the government continues to work on the technical regulations to further specify details on the amendments, it is anticipated that the economy liberalisation and centralisation of regulatory

authorities outlined in the Omnibus Law will improve the business environment in the country.

SCOPE

- Sustainability and utilisation of space
- Environmental approval
- Building approval and certificate of worthiness
- Marine and fisheries
- Agriculture
- Forestry
- Energy and mineral resources
- Nuclear power
- Industry
- Trade, legal metrology, Halal product assurance, and standardisation and conformity assessment
- Public works and public housing
- Transportation
- Health, medicine and food
- Education and culture
- Tourism
- Religious
- Postal, telecommunications and broadcasting
- Defence and security
- Investment in certain sectors
- Employment
- Cooperatives, micro, small, and medium enterprises
- Ease of doing business
- Research and innovation
- Acquisition of land
- Economic zone
- Implementation of government administration to support job creation
- Local government

HIGHLIGHTS

- Transfer of oversight to the Central Government
- New business licensing system assessed based on the risk of the business activity
- More relaxation on the importation of goods
- Heavier penalty on violation of rules through administrative sanctions

SELECTED KEY AMENDMENTS

| SECTOR | KEY AMENDMENTS | POTENTIAL IMPACT TO FOOD INDUSTRY AND OPPORTUNITIES |
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| Industry | <u>Law No. 3 of 2014 on Industry:</u> <ul style="list-style-type: none"> • Inclusion of 'supply of raw materials and/or supporting materials for industry' as one of the focus areas. • Central Government and District Government to ease the sourcing of raw materials and/or supporting materials according the industry's | <u>Law No. 3 of 2014 on Industry:</u> <ul style="list-style-type: none"> • Importation of raw materials and/or supporting materials that is made easier to support the input needs from local food and beverage industry opens opportunities for overseas raw material |

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| | <p>needs, including import. This is to maintain the continuity of production process and/or industry developments.</p> <ul style="list-style-type: none"> • The responsibility to implement, develop and supervise the Indonesian National Standard (SNI) is given to the Central Government (used to be under the Minister). • The conformity assessment of mandatory SNI is carried out by accredited agency that is appointed by the Central Government (used to be under the Minister). • Previously, there was restriction on the ownership by foreign investors in the country's strategic industries and changes are made such that the restriction on ownership by foreign investors is now to be in accordance with regulatory provisions. • New business licensing issued by the Central Government applies to industry members. • The Central Government is responsible for the supervision and control over industrial business activities and industrial estate business activities. The Central Government can assign accredited agencies for the implementation of supervision and control. | <p>suppliers and diversifies sourcing options for local manufacturers.</p> <ul style="list-style-type: none"> • The guidance and supervision of conformity assessment bodies and SNI that is changed from the Minister to the Central Government standardise approach and reduce inconsistency. • The changes made to the restriction on ownership by foreign investors are seen as opportunities for more foreign investments in the strategic industries, depending on further provisions that will be made in the regulations. • A centralised licensing system standardises process, improves transparency and reduces the need for businesses to submit multiple applications for permits and licenses. • Risk-based business license scheme can help to speed up the process of license application, as licenses requirements are stipulated according to the risk that is posed towards health, safety, environment, utilisation of natural resources and/or other risks. Businesses at the low risk category are not required to obtain the environmental license. However, the risk classification is yet to be defined. |
| Trade, legal metrology, Halal product assurance, and standardisation and conformity assessment | <p><u>Law No. 7 of 2014 on Trade:</u></p> <ul style="list-style-type: none"> • The responsibility on the implementation of the law is changed from the Government and/or District Government to the Central Government, including import and export activities. • Central Government oversees the issuance of new business licenses – applicable to businesses, warehouse owners, exporters, | <p><u>Law No. 7 of 2014 on Trade:</u></p> <ul style="list-style-type: none"> • The responsibility that is shifted to the Central Government prevents overlap in regulations and inconsistency with regulations under District Government. • With import rules being open up, support for more exports can be seen as a way to maintain a balance of food |

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| | <p>importers. The approval to carry out trade activities used to be issued by the Minister or District Government and technical agencies delegated by the Minister. Previously, warehouse owners were required to register their warehouses according to the storage capacity whereas exporters and importers were required to be registered or approved.</p> <ul style="list-style-type: none"> • Administrative sanction upon businesses that do not comply to the requirements, e.g. businesses that do not attach local language on products that are traded within the country, warehouse owners that do not bear the required business license or do not record the movement of storage goods into/out of the warehouse, and also exporters and importers found not responsible for the exported or imported goods. • A heavier penalty is imposed on businesses handling trade activities that are identified as high risk, as compared to low or medium risk trade activities. • The development of innovative products for export purposes is added to the foreign trade policy and control. • The Central Government oversees the implementation of the Indonesian National Standard for service providers. • Administrative sanction upon service providers that do not comply to the existing standard or obtain the necessary certifications. | <p>trade. The development of innovative products for export purposes that is added is seen as an approach to enhance the country's export, along with other export policy and controls that were introduced previously.</p> <ul style="list-style-type: none"> • While not specifically for food products, the added focus on innovation presents new opportunities for the food industry, for example, collaboration between government and private sector to establish instruments to support innovation. |
| | <p><u>Law No. 33 of 2014 on Halal Product Assurance:</u></p> <ul style="list-style-type: none"> • Halal certification process shortened and simplified – assessment process shortened from 40-60 days to 15 days. • Halal auditing agency no longer require accreditation from BPJPH and halal auditor certification from MUI. | <p><u>Law No. 33 of 2014 on Halal Product Assurance:</u></p> <ul style="list-style-type: none"> • Simplification of certain steps and a quicker renewal process for products with the same product formulation as what has been submitted in earlier certification application are positive measures to help to ease the |

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| | <ul style="list-style-type: none"> • Renewal of halal certification can be immediately issued for companies that submit statement to declare that their production process is halal and no change to the composition of products that have obtained halal certification previously. • Halal certification fee for micro and small businesses waived. | overall halal certification process. |
| Health, medicine and food | <p><u>Law No. 18 of 2012 on Food:</u></p> <ul style="list-style-type: none"> • Prioritised food supply sources include domestic food production, national food reserves, and food imports. Previously, prioritised sources only included domestic food production and national food reserves. • Pre-conditions for the import of food (when domestic production and national food reserves are insufficient to meet local demands) are lifted to meet the needs in the country and national food reserves. • The Central Government sets policies and regulations related to the import of food and implements the food safety framework in an integrated manner together with the District Government. • Businesses are required to fulfil the food safety conditions prior to obtaining the business license from the Central Government or District Government based on the standard, procedure and criteria set by the Central Government. Exemptions are given to processed food produced by micro and small enterprises. • Removal of article on the provision of Government having the ability to set rules such that food is tested in approved laboratories prior to distribution. • Administrative sanction upon businesses that do not comply to the requirements. A heavier penalty is imposed on businesses handling trade activities that are identified as | <p><u>Law No. 18 of 2012 on Food:</u></p> <ul style="list-style-type: none"> • A diversification of food sources steers away from self-sufficiency and introduces export opportunities for foreign traders. Previously, imports are not allowed if there is enough from domestic production and national food reserves. • The removal of article on the rules around the testing of food in approved laboratories prior to distribution could be a positive impact that removes the need for duplication of testing in country of sale. |

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| | high risk, as compared to low or medium risk trade activities. | |
| Ease of doing business | <p><u>Law No. 28 of 2009 on Regional Tax and Levy:</u></p> <ul style="list-style-type: none"> As part of the implementation of national fiscal policy and support policy to ease investment and drive growth of industry and businesses that are highly competitive, as well to protect and provide fair regulation, the Central Government can make adjustments to the tax and levy policies in accordance to national priorities, as determined by fiscal incentives provided by the District Government to businesses, such as reduction, relief and exemption or elimination of tax principal and/or sanctions. | <p><u>Law No. 28 of 2009 on Regional Tax and Levy:</u></p> <ul style="list-style-type: none"> At a broad level, the ability of the Central Government to intervene tax and levy policies set by the District Government provides assurance to businesses on the rules and regulations that are established in the region do not overlap or contradict each other. |
| Implementation of government administration to support job creation | <p><u>Law No. 30 of 2014 on Government Administration:</u></p> <ul style="list-style-type: none"> Standard is defined as decision of authorised government authorities or institutes recognised by the Central Government as a form of approval that shows the fulfilment of all requirements as determined in accordance to the provisions of the regulations. This is added on top of existing authority of the Central Government to issue license, concession and dispensation. The government agencies and/or government officials are mandated to provide guidance and supervision on the implementation of license, standard, dispensation and/or concession. The guidance and supervision can be done in cooperation with or by a certified professional in accordance to the field of supervision. The timeframe given to government agencies and/or government officials to determine and/or make decisions and/or take actions is shortened from ten to five working days upon receiving the | <p><u>Law No. 30 of 2014 on Government Administration:</u></p> <ul style="list-style-type: none"> The ability for the Central Government to issue standard, in addition to license, concession and dispensation for avoids inconsistency between Central and District Governments. Decision or action that can be issued in electronic format helps to streamline and expedite processes, for example, licensing process can be streamlined through issuance of licensed via online electronic licensing system. |

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| | <p>application, unless stated in the laws and regulations.</p> <ul style="list-style-type: none"> Government agencies and/or government officials may issue the decision or action in electronic format for application that is processed through the electronic system and has fulfilled all the requirements in the system and the decisions in electronic form are to be seen as carrying the same kind of authorisation as the written format. | |
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This report is prepared by the FIA Regulatory team. Should you have any questions, please contact:
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