

By Eddy Leks

Construction Service Law Post Job Creation Law

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Once planning is completed, the developer will have to engage a contractor to construct the proposed building. The arrangement is agreed through a contract, which should be governed by a solid construction service law. Indonesia's construction service law is under the ministry of public work and public housing and the provisions of which are also being amended by the new job creation law.

The academic script of the job creation law proposes many changes to the provisions of the existing construction service law, mainly due to the simplification of business licensing. Overall, 25 clauses are amended and 8 are deleted but in reality, most of the changes are superficial, bringing terms into line with those used under the job creation law. For instance, Business License for Construction Service, also called Business License and Sole Proprietorship Registration, is amended to "Business Licensing" and references to "Minister Regulation" and "Presidential Regulation" are amended to "Government Regulation". New phrases repeatedly used by the job creation law, namely norm, standard, procedure, and criteria, also called "NSPK" are also inserted. However, the definition clause under the construction service law stipulating the "Business License" and "Sole



Proprietorship Registration" is not amended, perhaps unintentionally, since the definition clause should have also been amended.

The removal of many provisions under the old construction service law does not mean that they are no longer regulated or no longer relevant. It maybe that such provision now belongs to another sector of law or will be inserted through other procedures involved in business licensing. I touch on a couple of these areas below as examples but there are several others.

The provision on the service provider selection is removed, but this does not mean that any party can choose any service provider without any conditions. The provision of the same will refer to the other implementing regulation on the selection of service providers, e.g., the government's presidential regulation on the procurement of goods and/or services. For the private party, it will be based on a business' "best practice". A similar provision on the guarantee that the service provider must deliver to the service user is also removed, e.g., tender bond, advance payment

bond, performance bond, etc. Again, this would refer to the presidential regulation's provisions regulating the same and, on a business' "best practice".

The provision on the foreign construction worker

is also removed under the job creation law. That provision regulates that the employer must have a foreign worker usage plan and license to employ a foreign worker. The academic script explains that such provision will have to refer to the regulations in the employment sector. The construction service law will only focus on security, safety, health, and sustainability norms.

Overall, there are almost no substantial amendments made to the old construction service law. Almost all amendments focus on the unity aspect, namely change of term so that all terms newly used in the job creation law will also be applied to the old construction service law. **F**

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