

## **The Constitutional Court Declares the Job Creation Law to be Conditionally Unconstitutional.**

On November 25<sup>th</sup>, 2021, the Constitutional Court through verdict Number: 91/PUU-XVIII/2021 stated that Law No. 11 of 2020 concerning Job Creation (Law No.11/2020) is conditionally unconstitutional because of its formation was procedurally flawed. In making changes toward the existing laws, The Job Creation Law which was validated on November 2<sup>nd</sup>, 2020, applies the omnibus legislative technique method. Law No.11/2020 is divided into eleven clusters and revises seventy-eight laws.

### **Key Problems**

1. The Job Creation Law does not comply with the provisions forming laws based on the Constitution of the Republic of Indonesia and the technique for drafting laws based on Law Number 12 of 2011.
2. There is a change in the material's content after the law is jointly approved by the House of Representatives (DPR) and the President. The approved manuscript underwent page and substance changes several times before it was finally ratified as law by the President.

### **Constitutional Court Decisions**

1. To declare that the formation of the Job Creation Law is contrary to the Constitution of the Republic of Indonesia and does not have conditionally legal binding force as long as it is not interpreted as "no revised have been made within two years since this decision was pronounced."
2. To declare that Job Creation Law remains in effect until revisions are made to the establishment by the grace period as determined in this decision.

3. Order the legislators to make improvements within a maximum period of two years from the pronouncement of this decision, and if within that time limit no revisions are made, the Job Creation Law is permanently unconstitutional.
4. Suppose within two years the legislators cannot complete the revision of the Job Creation Law. In that case, the law and articles or material content of the law that have been revoked or amended by the Job Creation Law are declared to be re-applicable.
5. Declare to suspend all strategic and broad-impact actions and policies, and it is also not permissible to issue new implementing regulations related to the Job Creation Law.

## **Conclusions**

1. The Job Creation Law and implementing regulations made before the Constitutional Court Decision shall remain valid for two years as long as the legislators comply with the Constitutional Court Decision before 23 November 2023.
2. After the Constitutional Court Decision, strategic regulations or policies and strategic actions related to the Job Creation Law are suspended.
3. Business activities whose implementation is carried out under the Job Creation Law will continue as before for the next two years unless legislators have an amendment.

We will continue to monitor the development and implementation of legal regulations in this regard and will inform you in the next review.

### *Disclaimer:*

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