# CLIENT UPDATE

13 March 2026

## The Evolving Outsourcing Regulatory Framework in Indonesia: Legal Implication of the Job Creation Law

### Introduction

The outsourcing scheme has become an integral part of employment practices in Indonesia. Employers or companies utilize this model to enhance efficiency and flexibility. However, following the enactment of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation ("**Job Creation Law**"), the relaxation of outsourcing restrictions has increased the vulnerability of outsourced workers in terms of legal protection.

Within the framework of manpower law, the concept of outsourcing is inherently linked to the principle of limitation. Such limitations are intended to ensure that the delegation of supporting functions does not undermine the existence of an employment relationship for work that constitutes part of a company's core business.


**CO-AUTHORS**

**Aisyah Daniswari**
**Associate**
aisyah.daniswari@trilexica.id

**Yashinta Kosmanto**
**Associate**
yashinta.kosmanto@trilexica.id

**Larina Matoa**
**Intern**
lanira.matoa@trilexica.id

**OFFICE**

**World Trade Centre (WTC) 5, 7th Floor**
Jl. Jenderal Sudirman Kav. 29-31,
Jakarta Selatan 12920 –Indonesia
+62 21 5011 0920

Accordingly, outsourcing was initially designed not as a substitute for employment relationships involving core business activities, but solely as a mechanism for work that supports the core business functions. Nevertheless, following the enactment of Job Creation Law, as shift in the regulatory paradigm governing outsourcing practices has emerged.

**Legal Framework and Conceptual Foundations of Outsourcing**

Outsourcing generally refers to as the delegation of certain work functions and constitutes a labor management scheme whereby a company transfers certain activities or specific functions to an external party through a service-provision agreement for workers. In the business context, outsourcing is generally adopted as a measure to increase efficiency, reduce operational costs, and enable companies to focus on their core business activities.

The regulatory framework governing outsourcing in Indonesia was initially established under Law Number 13 of 2003 on Manpower, in which these provisions were amended through the enactment of the Job Creation Law (collectively referred to as "**Manpower Law 13/2003**").

Pursuant to Article 20 paragraph (1) of Government Regulation Number 35 of 2021 on Temporary Employment Agreement, Outsourcing, Working Hours and Breaks, and Termination of Employment Relationships ("**GR 35/2021**"), outsourcing service providers are required to obtain a Business Identification Number (*Nomor Induk Berusaha*) issued through the Online Single Submission system. This requirement arises given the Indonesian Standard Classification of Business Fields (*Klasifikasi Baku Lapangan Usaha Indonesia*) code applicable to outsourcing service provider companies, namely 78300 (Human Resources Provision and Human Resource Function Management), is categorized as a low-risk business activity.

As a principle, outsourcing service provider companies are open to foreign investment. Under the current investment regulatory system, outsourcing activities are no longer subject to foreign ownership restrictions. Consequently, foreign investors may hold up to 100% (one hundred percent) ownership of an outsourcing company in Indonesia.

In practice, the outsourcing arrangement creates a legal relationship that involves 3 (**three**) interrelated parties, namely: (i) the outsourcing user company; (ii) the outsourcing service provider; and (iii) the outsourced worker. The relationship between the user company and the service provider company is contractual in nature, whereas the legal relationship between the service provider company and the outsourced worker constitutes an employment relationship.

Furthermore, a recurring legal question concerns who is liable when an outsourced worker commits negligence resulting in losses to the outsourcing user company. This issue can be clarified by referring to the North Jakarta District Court Decision Number: 634/Pdt.G/2020/PN. Jkt.Utr dated 4 November 2021. In this decision, the court reasoned that there is no direct legal relationship between the outsourcing user company and the outsourced worker, as the employment relationship legally lies between the outsourcing service provider and the worker. Accordingly, liability for any negligence committed by the worker rests entirely with the outsourcing service provider as the employer.

Outsourcing service providers employ workers under a contractual arrangement and bear responsibility for fulfilling all statutory entitlements and normative rights of the worker, including wages, social security benefits, and workplace protection. Such employment relationships may be established either through a Fixed-Term Employment Agreement ("**PKWT**") or an Indefinite-Term Employment Agreement ("**PKWTT**").

**Shifting Regulatory Boundaries on Outsourcing Practices**

Under the regime of Law 13/2003, outsourcing is expressly regulated as the practice of delegating a part of a company's work to another party. This concept is set out in Article 64 of Law 13/2003, as amended by the Job Creation Law, which states:

> *"A company may outsource part of its work to another company under a written outsourcing."*

Furthermore, Article 65 paragraph (2) of Law 13/2003 stipulates that work that can be outsourced must meet the following requirements:

> "*Work that may be subcontracted as referred to in paragraph (1) must meet the following requirements:*
>
> 1. *The work can be done separately from the main activity;*
> 2. *The work is to be undertaken under either a direct or an indirect order from the party commissioning the work;*
> 3. *The work is an entirely auxiliary activity of the enterprise;*
> 4. *The work does not directly inhibit the production process"*

Law 13/2003 therefore limits outsourcing by prohibiting the use of outsourced workers for main activities or activities directly related to the core business, except for supporting service activities or activities that are not directly related to the production process, namely activities

that are related outside the company's core business. This is further stipulated under the Explanation for Article 66 paragraph (1) of Law 13/2003, in which identifies supporting service activities as:

1. Cleaning service activities;
2. Provision of food for workers/laborers (catering);
3. Security services (security personnel);
4. Supporting services activities in the mining and petroleum sectors; and
5. Provision of transportation for workers/laborers.

Following the enactment of the Job Creation Law, the restrictions contained in Article 65 of Law 13/2003, as well as the list of activities mentioned in the Explanation of Article 66 of Law 13/2003 (as stated above), have been legally removed. The Job Creation Law no longer explicitly distinguishes between core activities and supporting activities as the basis for limiting outsourcing. Eliminating this clear separation between core and supporting activities has opened up the possibility for outsourcing user companies to outsource work that was previously prohibited under normative rules. In principle, this development weakens the original limiting function of the outsourcing framework.

**Legal Problems in the Practice of Outsourcing**

Although outsourcing has already been regulated, its implementation in Indonesia continues to face various challenges. One of the key issues lies in the gap between the regulatory objective, namely the positioning of outsourcing as an efficiency instrument, and actual practice in the field, which tends to place outsourced workers in a vulnerable position.

The reduction of limitations between core and supporting activities has made an impact on the position of the outsourced workers, who are becoming increasingly vulnerable. In practice, outsourced workers are no longer confined to supporting roles, but rather increasingly perform ongoing operational functions that are strategic and integral to the core business. From a policy and business practice perspective, the placement of outsourced workers in core business functions is generally driven by considerations of cost efficiency and the desire for greater flexibility in workforce management. By outsourcing core activities, user companies can reduce long-term employment obligations, including risks associated with termination of employment, severance pay obligations, and other statutory entitlements owed to outsourced workers.

The issue becomes more complicated when examined in relation to the application of PKWT in outsourcing arrangements. Most outsourced workers are engaged under PKWT, which creates uncertainty when there is a change in, or transfer of, the outsourcing service provider. Such situations raise questions regarding the continuity of the employment relations, the recognition of prior working periods, and the transfer of legal responsibilities. Article 19 paragraph (1) of GR 35/2021 explicitly provides that outsourced workers employed under a PKWT, the employment agreement must include provisions ensuring the transfer of rights protection for said workers, so long as the object of the work remains unchanged. This requirement is designed to ensure the continuity of the protection of the outsourced workers' rights and to ensure that their working period is preserved and not nullified as a result of a transfer or change in the outsourcing service provider companies.

Although the normative framework requires the inclusion of clauses regarding the transfer of rights protection in PKWT used in outsourcing arrangements, there remains no regulation that expressly determines the criteria for types of work in outsourcing practices that may be assigned under a PKWT scheme. As regulated under Article 4 paragraph (2) of GR 35/2021, PKWT may not be applied to work of a permanent nature. Consequently, if the type of work performed in an outsourcing arrangement satisfies the characteristics of permanent and continuous work, the issue extends beyond the transfer of rights upon the change of the outsourcing service provider company. It also raises questions regarding the legality of using a PKWT as the basis for the employment relationship itself.

**Recommendations**

The removal of the clear distinction between core and supporting work following the enactment of the Job Creation Law has created room for an expansion of outsourcing practices beyond their original function. This regulatory loosening opens the possibility of a labor system in which permanent workers may be replaced or substituted with workers supplied by outsourcing service provider companies to perform virtually all categories of work without clear limitations. Such a situation directly undermines employment security and the protection of the rights of outsourced workers. When normative boundaries are no longer clearly regulated, employment relations may indirectly be used as a mechanism to shift or avoid labor obligations.

Accordingly, the government must reintroduce clear and proportionate limitations on outsourcing practices, particularly with respect to identifying which types of work may legitimately be outsourced, to ensure legal certainty regarding the “partial transfer of the work” and to prevent the potential blurring of responsibilities in the implementation of outsourcing practices. In addition, normative clarification is needed concerning the use of PKWT in outsourcing arrangements. Such clarification must provide explicit parameters for what constitutes "work of a permanent nature", thereby preventing overly broad interpretations.

## ABOUT TRILEXICA

TRILEXICA is a firm that resulted from a merger of two established boutique law firms in 2023, Trifida at Law and Legalexica. With the merger, TRILEXICA successfully combines solid track records from the previous two firms and forms a global-oriented and full-service law firm providing wide-range expertise in M&A, capital markets, banking& finance, good corporate governance, commercial dispute (including disputes in the financial services and capital markets sector) and fraud investigation. We are mainly focusing our legal service on financial services, technology, media and telecommunication, transportation, and renewable energies sectors. Each of the 7 partners in TRILEXICA has a PQE of more than 12 years in the legal industry.

We were named **'2023 In-House Counsel Choice – Most Recommended Law Firm**' by Hukum Online. These awards recognise our milestones as a recognised mid-size law firm. We were also rewarded the '**2023 Project Finance Deal of the Year**' and '**2023 Firm to Watch**' by Asian Legal Business (ALB), and a finalist of the '**2023 TMT Firm of the Year**'. In 2024, we proudly achieved recognition as '**2024 Best Midsize Full-Service Law Firms**' by Hukum Online.




---