

# LEGAL ALERT

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## Guidelines to Enforce Industrial Relation Court's Decision Issued

Early this year, the Indonesian Supreme Court through the Directorate General of the General Judiciary issued a guideline of the industrial relation court's decision ("[Guideline](#)") which sets forth the execution procedure for settlement of industrial relation disputes.

### What is the scope of the Guideline?

Generally, in respect of the industrial relation dispute, the Guideline refers to the scope as regulated under Law No. 2 of 2014 on the Industrial Relation Dispute Settlement. As such, the Guideline covers: (i) the execution guideline for industrial relation court's decision, (ii) agreement resulting from employment dispute or deed of settlement ("[Settlement Agreement](#)"), (iii) arbitration award on employment dispute and (iv) binding court's decision on the termination of employment dispute.

### What's new in the Guideline?

The Guideline provides the following new items:

#### Application requirements for notification (*aanmaning*) or execution on the industrial relation court's decision

1. The Guideline provides a list of documents required which includes the application letter signed by the applicant or his/her attorney. The application letter must be accompanied with, among others, the identity of the applicant or articles of association of the applicant (if the applicant is a legal entity), description of the dispute, court's decision and the receipt date of the court's decision by both parties.

The Guideline also provides that if the court's decision mandates for a reemployment, then the execution/*aanmaning* can be done in the form of bailiff providing the minutes of order for the relevant employer to reemploy the relevant employee.

#### Application requirements for notification (*aanmaning*) or execution on the Settlement Agreement

The Guideline provides a list of documents required which includes the application letter signed by the applicant or his/her attorney. The application letter must be accompanied with, among others, the identity of the applicant or articles of association of the applicant (if the applicant is a legal entity), copy of the Settlement Agreement, the proof of registration of the Settlement Agreement to the industrial relation court and brief description of the Settlement Agreement.

#### Cost calculation for notification (*aanmaning*), confiscation and execution

The Guideline sets forth that the cost calculation amount for notification (*aanmaning*), confiscation and execution shall refer to the Government Regulation No. 53 of 2008 as amended by Government Regulation No. 5 of 2019 on the Types and Tariff of Non-Tax State Revenue Applicable within the Supreme Court and other Judiciary Bodies under the Supreme Court. The Guidelines provides a sample of items to be calculated for notification (*aanmaning*), confiscation and execution.



### Execution steps

The Guidelines provides the general steps of execution which includes application, execution notification, execution determination, preparation and the implementation of execution.

### Forms to be used in applying for the execution

The Guidelines provides various forms to be used for the application of execution to the relevant court. In relation to the industrial relation dispute, the Guideline provides the application form for the confiscation or freezing of bank account and the disbursement of the bank account.

### Is the Guideline binding under the law?

Strictly speaking, it is doubtful whether or not a guideline can be a binding law instrument. This is because Law No. 12 of 2011 on Establishment of Laws and Regulations (“[Law 12/2011](#)”) does not specifically regulate that a guideline can be a binding law instrument. However, as the Supreme Court is admitted as one of the institutions that may produce a regulation aside from the law hierarchy provided by Law 12/2011, it is necessary to see that the Guideline can be binding from practical point of view. Similar to a circular letter (*surat edaran*) that is binding internally within an institution, the Guideline will be used internally within the Indonesian courts particularly for the procedure in enforcing courts’ decision. Consequently, when we need to deal with the Indonesian Court for the matters related to execution, the Guideline will be used as some sort of standard operation procedure. Therefore, it is also safe to say that, although not as a law instrument, the Guideline has an institutional binding power.

If you have any questions or require any additional information, please contact [Afriyan Rachmad](#) or [Steffen Hadi](#) of Roosdiono & Partners (a member of ZICO Law).

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