



ARMA Update: 20 April 2022

(English Version)

Religious Holiday Allowance (*THR*) to Be Paid in Full

General Overview

Ahead of the Religious Holiday, Religious Holiday Allowance/*Tunjangan Hari Raya* (“**THR**”) is a non-wage income that must be paid by the Employers to their Employees. On 6 April 2022, The Ministry of Manpower has issued the Circular Letter (“**CL**”) of the Minister of Manpower (“**MoM**”) Number M/1/HK.04/IV/2022 concerning the Implementation of Religious Holiday Allowance in 2022 for Employees (“**CL MoM 1/2022**”).

Based on CL MoM 1/2022, the Employers are required to provide *THR* in accordance with the provisions of the employment law, namely Government Regulation Number 36 of 2021 concerning Wages (“**GR 36/2021**”), and Minister of Manpower Regulation Number 6 of 2016 concerning Religious Holiday Allowances for Employees (“**MoM Reg 6/2016**”). In the regulation concerning *THR* in 2022, there are significant changes from the previous 2 (two) years. The most notable change is the current provision in which the *THR* must be paid in full.

This ARMA Update will discuss the latest regulation, including the changes and the calculation of *THR* in 2022.

Who is Eligible to Receive *THR*?

According to CL MoM 1/2022, *THR* is given to (i) Employees who have worked continuously for 1 (one) month/more; and (ii) Employees under Fixed Term Employment Agreement/*Perjanjian Kerja Waktu Tertentu* (“**PKWT**”) and Permanent Employment Agreement/*Perjanjian Kerja Waktu Tidak Tertentu* (“**PKWTT**”).

How Much Should *THR* Be Paid?

The amount of *THR* is given under the following calculations:

- 1) For Employees who have worked continuously for 12 (twelve) months or more, the *THR* amounts to 1 (one) month's wage.
- 2) For Employees who have a continuous working period of 1 (one) month but less than 12 (twelve) months, the *THR* is calculated on a pro rate basis:

$$\frac{\text{working period}}{12 \text{ (twelve)}} \times 1 \text{ (one) month's wage}$$



- 3) For workers under a daily work agreement, 1 (one) month's wage is calculated as follows:
 - a. For employees who have worked for 12 (twelve) months or more, 1 (one) month's wage is calculated based on the average wages received within the last 12 (twelve) months prior to the religious holiday.
 - b. For employees who have worked for less than 12 (twelve) months, 1 (one) month's wage is calculated based on the average salary received each month during the working period.
- 4) For employees whose wages are determined based on the unit of certain output, 1 (one) month's wage is calculated based on the average wage of the last 12 (twelve) months prior to the religious holiday.
- 5) The amount of *THR* can be determined by the Employer if the amount of the *THR* on the work agreement provided is greater than the calculations above.

Most importantly, *THR* must be paid no later than 7 (seven) days before the religious holiday of the relevant employee.¹

What If There Are Remaining Unpaid *THR* from the Previous Years?

Although in 2020 as regulated in CL MoM Number M/6/HI.00.01/V/2020 of 2020 concerning the Implementation of Providing Religious Holiday Allowances in 2020 During the Corona Virus Disease 2019 (Covid-19) Pandemic (“**CL MoM 6/2020**”) and in 2021 as regulated in CL MoM Number M/6/HK.04/IV/2021 of 2021 concerning the Implementation of Provision of Religious Holiday Allowances in 2021 for Employees (“**CL MoM 6/2021**”) Employers are given the relief to pay *THR* gradually, the *THR* must still be paid 7 (seven) days before the Employee's religious holiday within the same year.

Therefore, if in 2022 the Employer still owe the Employee *THR* from the previous years, the Employee can report the Employer to the local Manpower Office. Employers who are late in paying *THR* to Employees are subject to a fine of 5% (five percent) of the total *THR*² and Employers who do not pay *THR* to Employees are subject to administrative sanctions by the Minister, Governor, Regent/Mayor or an official appointed according to their authority³ in the form of:⁴

- 1) written warning;
- 2) restrictions on business activities, including restrictions on the production capacity of goods and/or services within a certain time and/or delays in granting business permits in one/several locations for companies that have projects in several locations;
- 3) temporary suspension of part or all of the means of production; and
- 4) freezing of business activities within a certain period.

¹ CL MoM 1/2022, Article 9 Paragraph (2) of GR 36/2021 and Article 5 Paragraph (4) of MoM Reg 6/2016

² Article 62 of GR 36/2021 and Article 10 Paragraph (1) of MoM Reg 6/2016

³ Article 80 Paragraph (1) of GR 36/2021

⁴ Article 79 Paragraph (1) of GR 36/2021 and Article 11 of MoM Reg 6/2016



It shall be noted that these sanctions are given in stages⁵ and do not waive the Employer's obligation to pay *THR*.⁶

If the Employer still does not pay the *THR*, a lawsuit can be filed at the Industrial Relations Court at the local District Court whose jurisdiction covers the place where the Employee works.⁷

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⁵ Article 79 Paragraph (2) GR 36/2021

⁶ Article 62 Paragraph (2) of GR 36/2021 and Article 10 Paragraph (2) MoM Reg 6/2016

⁷ Article 81 of Settlement of Industrial Relations Disputes Law