

Indonesia



What is the basis of law in Indonesia?

Indonesia has a civil law system. Customary law (*Adat*) applies in non-western contexts (i.e. village transactions). *Adat* law varies widely across Indonesia. There is a sophisticated body of rules dealing with choice of law in interpersonal conflicts. Islamic law may also apply to certain aspects of family and inheritance, and in other certain areas.

How is the legal profession regulated?

Lawyers (advocates) are regulated under the *Indonesian Advocates Act (Law No.18 of 2003)*. This law distinguishes between advocates, consultant advocates and foreign advocates. However, the term "advocate" is used in common practice to refer only to those Indonesian lawyers who practise as litigators (barristers). Other practitioners are usually referred to as lawyers or consultants. Foreign lawyers may not practise as litigators, and so, may be consultants only.

Indonesian lawyers are qualified to practise if they have an undergraduate law degree, have attended a course run by Perhimpunan Advokat Indonesia (PERADI), passed an examination, have worked for at least two years in a law office, and are not employed by the Government. Foreign lawyers are qualified to practise on the basis of a foreign practising certificate which must be current. (Bear in mind that the qualifications for foreign consultants were introduced before those for Indonesian consultants, which was only in 2003).

Most legal services in Indonesia are delivered by notaries, who are subject to Law 30 of 2004. Only citizens may be notaries. Notaries must act in a non-partisan way in serving the interests of the parties whose legal actions he/she records in the deeds he/she makes.

What is the professional representative body or bodies?

PERADI is the peak body for the legal profession. Various bar associations exist in Indonesia which represent the interests of their members, but under the PERADI umbrella. Other associations (with no statutory authority) represent the interests of their members.

Which body is responsible for professional regulation?

Under the *Indonesian Advocates Act*, PERADI is responsible for the regulation of the legal profession in Indonesia to, among other things:

- appoint advocates (lawyers) and report such appointments to the Supreme Court and the Minister; oversee the Indonesian bar (practice qualification) examination;
- take responsibility for disciplinary measures;
- formulate (and enforce) a code of ethics; and recommend (or otherwise) the employment of foreign lawyers.

What rules govern fly-in/fly-out practice?

There are no rules allowing temporary practice by foreign lawyers. Business permits under which foreign business persons (including lawyers) are permitted to enter Indonesia to follow up on business opportunities are not work permits.

What rules govern foreign legal consultants?

A foreign lawyer can obtain a licence entitling him/her to offer advisory services, but he/she must be sponsored and employed by a local law firm (i.e. partnership).

Legislation relevant to foreign legal consultants is:

- Article 23 of the *Advocates Act (Law No.18 of 2003)* (available online at www.peradi.or.id);
- Decree No M11-HT.04.02 of 2004 (17 December 2004) concerning the requirements and procedures of employing foreign lawyers and the obligations of contributing free legal service to legal education and research (available at www.imigrasi.go.id);
- Law No 9 of 1992 concerning immigration;
- the Ministry of Manpower and Trans Migration Ministerial Regulation PER.02/MEN/III/2008 concerning procedures for employing foreign employees (available at www.depakertrans.go.id).

To gain employment the foreign lawyer must:

- be employed by an Indonesian law firm;
- submit copies of foreign legal qualifications and current practising certificate and law society membership to PERADI and the Ministry of Law; if the lawyer is recommended by PERADI and approved by the Ministry of Law, the employer must obtain a work permit from the Ministry of Manpower; make an annual contribution of US\$1200 to a government Skill Development Fund; and obtain a temporary stay visa from the Office of Immigration (for one year at a time).

What rules govern foreign lawyer admissions?

A foreign lawyer cannot obtain a full licence to practise law in Indonesia. Lawyers must be Indonesian citizens and reside in Indonesia.

What forms of commercial associations are permitted between foreign and local lawyers and law practices?

In Indonesia foreign lawyers:

- must be employed by an Indonesian law firm (i.e. a partnership);
- may not employ local lawyers;
- may not provide services in some other form of commercial association with local lawyers; and
- may not establish a commercial presence to offer advisory services in foreign and international law (foreign partnerships cannot operate in Indonesia).

What is the extent of Australian legal presence in Indonesia?

There are approximately 16 Australian lawyers practising as foreign legal consultants in Indonesia.

There are no Australian firms present in Indonesia.

Additional information

A foreign lawyer is obliged to transfer legal knowledge and professional capabilities to Indonesian lawyers and provide free legal services to education, legal research and government institutions for at least 10 hours a month.

One foreigner may be employed for every four Indonesian lawyers employed in a firm, with a maximum of five foreigners in any firm. However, an Indonesian firm with only three lawyers may employ a foreigner.

Further inquiries

[Indonesian Advocates Association PERADI](#)

[Ministry of Manpower and Trans Migration Ministerial Regulation](#)

[Law Council of Australia](#)

Map credit: By Peter Fitzgerald, Indonesian translation by Bennylin (Own work based on File:Indonesia regions map.svg) [CC-BY-SA-3.0 (<http://creativecommons.org/licenses/by-sa/3.0>)], via Wikimedia Commons



Law Council of Australia

Street address: 19 Torrens Street Braddon ACT 2612
 Postal address: GPO Box 1989 Canberra
 Facsimile: (02) 6248 0639
 Telephone: (02) 6246 3788
 E-mail: mail@lawcouncil.asn.au