

# LEGAL UNCERTAINTY IN GOVERNMENT REGULATION NUMBER 51 OF 2020 REGARDING THE TEN-YEAR PASSPORT VALIDITY PERIOD

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## **Keywords**

*Government Regulation Number 51 of 2020, legal reform, legal uncertainty, passport validity*

## **ABSTRACT**

This study examines the legal uncertainty arising from the implementation of Government Regulation No. 51 of 2020 concerning the change in passport validity from 5 years to 10 years, as well as the need for legal reform to address the issue. Legal uncertainty occurs due to the absence of clear implementing regulations, thus affecting the effectiveness of policy implementation in the field of immigration administration, including tariff adjustments and management of passport forms. The purpose of this study is to analyze the lack of clear implementing regulations and their impact on immigration administration, proposing solutions such as creating comprehensive guidelines, legal harmonization, and system updates to ensure policy execution. This research utilizes the normative method to analyze the legal uncertainty surrounding Government Regulation Number 51 of 2020 by examining the relevant legal standards. This study finds that the enactment of Government Regulation No. 51 of 2020 has created legal uncertainties, particularly regarding the transition for existing passports, fee adjustments, and administrative procedures. These ambiguities may disrupt immigration services and confuse both the public and immigration officers, calling for clear guidelines and implementing regulations to ensure the smooth execution of the policy. This study recommends legal reform by preparing comprehensive implementing regulations, harmonization with related laws, and updating the administrative system to support policy implementation. This study suggests a more adaptive legal framework and increases the capacity of technology and human resources to face future immigration challenges.

## **INTRODUCTION**

In recent years, the Directorate General of Immigration has launched several significant immigration policies, including responses to the COVID-19 pandemic as well as changes in technical immigration policies (Herlina, 2021). One of the important changes in this policy is the issuance of passports with a validity period of 10 years, which is regulated in the Government Regulation of the Republic of Indonesia Number 51 of 2020. This regulation is the second amendment to Government Regulation Number 31 of 2013, which implements Law Number 6 of 2011 concerning Immigration. In line with handling the impact of the pandemic and changing immigration administration needs, the Directorate General of Immigration has introduced several new policies to improve the efficiency and adaptability of the Indonesian immigration system (Havid, 2008). Among these policies, one of the most striking is the change in the validity period of passports to 10 years. This policy is specifically regulated in Government Regulation Number 51 of 2020, which summarizes important changes from previous regulations (Pratama, 2019).

Government Regulation Number 51 of 2020 brought significant changes to the validity period of passports, which were previously only valid for 5 years. With the issuance of this regulation, the validity period of passports has now been extended to 10 years, providing convenience for passport holders and extending the validity period of the travel document (Edwinarta & Dwijayanti, 2024). The modification is seen as a beneficial move to align immigration policies with the evolving requirements of the community and present circumstances. Changes related to the validity period of passports are regulated in Article 51 of Government Regulation of the Republic of Indonesia Number 51 of 2020. This article changes the provisions in paragraph 1 of Article 51, which now reads: "The validity period of an ordinary passport is a maximum of 10 (ten) years from the date of issuance."

This change reflects an effort to adjust immigration policies to current needs and developments. By extending the validity period of passports from 5 years to 10 years, this policy not only aims to provide convenience for passport holders but also to improve the quality of the security of the passport itself. This change is in line with practices that have been implemented in several Southeast Asian countries, such as Singapore, Thailand, and the Philippines, which have already implemented longer passport validity periods. The adjustment of passport validity periods is considered a positive step in the context of Indonesian immigration policy (Harahap & Trimurni, 2023; Saputra et al., 2024; Yasin et al., 2024). In addition to offering convenience and reducing the frequency of passport renewals, this policy is also expected to strengthen the passport security system through the implementation of more advanced technology and security standards. The experience of other countries that have implemented similar policies shows that passport validity extensions can run smoothly and effectively, with additional benefits for passport holders and immigration administration (Fahrudin & Wianto, 2024).

In addition to increasing passport security, the new policy regarding passport validity also has a positive impact in financial terms. With the introduction of extended passport validity periods, the Directorate General of Immigration can increase Non-Tax State Revenue (PNBP) from the costs of making and replacing passports (Pradnyandari & Mahyuni, 2024). Increasing the fees for obtaining or renewing passports would result in higher government revenue, benefiting both passport users and the immigration authorities. This policy is aimed at maximizing the efficient use of passport pages from a budgetary standpoint (Khamis et al., 2022). Often, expired passports still have many blank pages, resulting in a mismatch between the number of passport forms needed and those available (Abeyratne, 2022; Roy et al., 2022; Wirth & Carbon, 2017). It could lead to instability in the availability of passport forms, and in some cases, potentially hamper or even stop passport issuance services. By extending the validity period of passports, the Directorate General of Immigration hopes to reduce the frequency of new passport issuances, thereby addressing the problem of the availability of forms and increasing efficiency in passport procurement.

Although the new policy on passport validity provides various benefits, there is legal uncertainty that needs to be addressed, especially related to the phenomenon of *rechtsvacuum*, or legal vacuum. *Rechtsvacuum* refers to a situation where there is a lack of ambiguity in legal regulations that causes ambiguity in the application of the rules (Asnawi et al., 2023). This legal uncertainty arises because of the shift from a 5-year passport validity period to a 10-year period, which may not have been fully accommodated by existing regulations and policies. The change could create a legal loophole that causes confusion among immigration officials and society. For example, new administrative procedures and fees for passport issuance may not be fully clear or integrated with existing regulations. This can result in a mismatch between new policies and existing practices, and create a situation where there is no adequate legal guidance to handle cases arising from the changes.

In addition, legal uncertainty can exacerbate the problem if regulations governing passport validity are not promptly updated or properly socialized. This can lead to confusion in law enforcement and the implementation of new policies, disrupt immigration administration processes, and impede the rights of passport applicants. This legal vacuum can also affect public trust in the immigration system if the public feels they do not receive certainty or clarity regarding their rights and obligations related to passports.

This study examines the legal uncertainty arising from the implementation of Government Regulation No. 51 of 2020 concerning the change in passport validity from 5 years to 10 years, as well as the need for legal reform to address the issue. The research makes a significant contribution by investigating the legal uncertainties associated with the implementation of Government Regulation No. 51 of 2020, which extends passport validity from 5 years to 10 years. It highlights the implications of this regulatory change on individuals and institutions, focusing on the challenges and ambiguities that

arise in the legal framework. Additionally, the study emphasizes the necessity for legal reform to address these uncertainties, offering insights that could guide policymakers in creating clearer regulations and improving legal consistency. Overall, this research underscores the importance of adaptive legal frameworks in response to evolving governmental policies.

## **METHODS**

This research utilized the normative method to analyze the legal uncertainty surrounding Government Regulation Number 51 of 2020 by examining the relevant legal standards. The legislative approach was employed to assess the legal regulations governing passport validity periods and to detect potential legal discrepancies resulting from changes in the regulation. Meanwhile, the conceptual approach was utilized to explore fundamental concepts related to passport security, policy modifications, and legal uncertainty, providing a comprehensive understanding of the theoretical and practical consequences of the policy within the realm of immigration law and administration.

The study utilized various data sources, including legal texts, government regulations, and academic literature related to immigration law and policy. Data generated from these sources included legal standards regarding passport validity, case studies of passport regulation impacts, and theoretical concepts surrounding legal uncertainty.

The author analyzed the data through a combination of qualitative analysis and comparative assessment. This involved systematically reviewing the relevant legal texts to identify discrepancies and ambiguities, as well as contextualizing these findings within the broader framework of immigration law. The author also employed thematic analysis to explore the implications of the regulation changes, focusing on key concepts such as passport security and policy modifications. This comprehensive approach allowed for a nuanced understanding of the legal uncertainties and their practical effects in the context of the new regulation.

## **RESULTS**

### **Legal Uncertainty Related to the Implementation of Government Regulation Number 51 of 2020 Concerning the 10-Year Passport Validity**

The policy change extending the validity period of passports from 5 years to 10 years, regulated under Government Regulation No. 51 of 2020, represents a significant step in Indonesia's immigration system. This policy aims to enhance administrative efficiency and improve the passport holder's experience. Previously, shorter passport validity often imposed additional burdens on holders who needed to renew their passports more frequently. The repeated renewal process can be time-consuming and costly for individuals, while also adding to the administrative burden for immigration authorities (Heinrich et al., 2022). The need for this change arises from several key factors. With technological advancements and increased passport security standards, a longer validity period for travel documents is considered more practical and effective. A 10-year passport not only reduces the frequency of renewals but also allows for the implementation of more advanced security technologies, offering better protection against forgery and misuse. Additionally, the extension of passport validity is a response to global trends where many countries, including several Southeast Asian nations such as Singapore, Thailand, and the Philippines, have implemented similar policies. These countries have demonstrated that longer passport validity can reduce administrative burdens, improve user satisfaction, and contribute to national revenue through higher passport fees.

Government Regulation No. 31 of 2013 set the passport validity in Indonesia at 5 years. This policy was previously considered adequate to meet immigration administrative needs and ensure that travel documents remained up-to-date with current security conditions. However, as technology evolves and societal needs change, there is a need to reassess this policy. One of the main reasons for changing from a 5-year to a 10-year validity period is to improve administrative efficiency and reduce the burden on passport holders. With a longer validity period, individuals do not need to renew their passports as frequently, which can reduce the number of visits to immigration offices and associated administrative processes (Carlier & Foblets, 2022). This also lowers the costs and time spent by applicants on routine renewals.

Another reason for this change is to align with international standards and best practices in other countries. Many Southeast Asian countries, such as Singapore, Thailand, and the Philippines, have implemented longer passport validity periods, providing benefits both from an administrative and security perspective. These countries have shown that extending passport validity can reduce renewal

frequency, optimize the use of passport blanks, and improve public satisfaction. This change is also driven by advances in passport security technology that allow for more sophisticated security features, ensuring that travel documents with longer validity remain reliable. With the application of modern technology in passports, such as electronic chips and biometric features, the risks of forgery and misuse can be minimized, making longer validity periods more practical and secure.

Government Regulation No. 51 of 2020, which extends passport validity from 5 years to 10 years, brings significant changes to Indonesia's immigration policy. Although this policy aims to improve efficiency, some areas within this regulation create legal uncertainties. One main area of uncertainty is the lack of clarity regarding the transition between passports with 5-year validity and the new 10-year passports. The regulation does not provide detailed guidance on how passports issued before the enactment of Government Regulation No. 51 of 2020 will be handled. It can confuse passport holders and immigration officers regarding the procedures for renewing or replacing passports during this transition period.

Furthermore, uncertainty also arises concerning the adjustment of fees associated with the extended passport validity. This policy change may necessitate a revision of administrative fees; however, if the regulation is not promptly followed by the establishment of new fees or clear guidelines, ambiguity may arise regarding the costs applicants must bear. This uncertainty can lead to inconsistencies in fee applications and potential disputes between applicants and immigration authorities. Another issue relates to the technical and operational adjustments required to implement 10-year validity passports. The regulation may not include details on adjusting administrative systems and managing passport blanks necessary to support the longer validity period. Without clear guidance, the issuance and management processes of passports may face obstacles, which in turn could hinder service delivery to the public and increase administrative burdens.

Legal uncertainty can also arise from a lack of guidance on changes needed in other legal and administrative documents related to passport validity. For example, provisions in regulations that govern the recording of passport validity in population administration systems and other travel documents may need updating, but if this is not regulated, it could lead to inconsistencies and administrative data issues.

Legal uncertainties related to the implementation of Government Regulation No. 51 of 2020 on 10-year passport validity can have significant impacts on immigration administration, particularly in the processes of issuing and renewing passports. The implications of this uncertainty include various administrative challenges that may affect the efficiency and effectiveness of immigration services. Legal uncertainty can confuse passport administration processes, both for issuing new passports and renewing existing ones. If guidelines regarding the transition from a 5-year to a 10-year validity period are unclear, problems may arise in implementing new procedures. For instance, passport applicants may be unsure of the steps required to renew their passports or whether they need to replace their valid passports with new ones. This uncertainty can slow processes and increase the workload for immigration officers who must handle unexpected questions and cases.

Legal uncertainty can affect public confidence in the immigration system. If the public feels they are not receiving consistent or clear information regarding the new policy, it could undermine their trust in administrative processes and services provided. Disappointment or confusion among passport applicants could impact the image of immigration institutions and lead to public dissatisfaction. From the perspective of immigration officials and related institutions, legal uncertainty can add challenges in implementing new policies. Immigration officials may face difficulties interpreting and applying ambiguous regulations and need to adjust existing procedures and administrative systems. Without clear guidelines, additional training may be necessary to ensure all staff understand and correctly implement the new policy. This could increase the administrative workload and add time needed to address issues arising from uncertainty.

The enactment of Government Regulations is governed by Law No. 12 of 2011 on the Establishment of Legislation, particularly in Article 87. This article stipulates that legislation, including Government Regulations, comes into force and has legal effect on the date of promulgation unless otherwise specified in the regulation. In other words, legislation automatically applies from the promulgation date stated unless a specific provision determines a different effective date. For example, Government Regulation of the Republic of Indonesia No. 51 of 2020, which is the second amendment to Government Regulation No. 31 of 2013 on the Implementation of Law No. 6 of 2011 on Immigration, is regulated in Article II, stating that the regulation takes effect on the promulgation date, i.e., September

11, 2020. It is under Article 87 of Law No. 12 of 2011, which states that the regulation automatically applies on that date or another specified date.

Meanwhile, Article 5, paragraph 2 of the 1945 Constitution stipulates that the President has the authority to issue government regulations to implement laws. Although the article does not specifically elaborate on what is meant by "as necessary," can generally be understood that the implementation of government regulations must be carried out effectively. To ensure optimal implementation, detailed implementing regulations or other subsidiary rules are often needed. However, the existence of implementing regulations or subsidiary rules is not a prerequisite for the validity of Government Regulations. Government Regulations remain valid and binding even in the absence of implementing regulations, though the presence of implementing regulations would help clarify and facilitate the implementation of the policy.

In the context of Government Regulation of the Republic of Indonesia No. 51 of 2020 on the Second Amendment to Government Regulation No. 31 of 2013 concerning the Implementation of Law No. 6 of 2011 on Immigration, the absence of implementing regulations represents a clear example of a legal void or *rechtsvacuum*. Although this Government Regulation has been promulgated and effective since September 11, 2020, the lack of implementing regulations can lead to various issues in policy implementation.

This legal void arises because Government Regulation No. 51 of 2020 stipulates significant changes, such as extending the passport validity period to 10 years, without accompanying the necessary detailed guidelines or implementing regulations to govern the technical implementation of these changes. The absence of implementing regulations can cause uncertainty in administrative procedures and policy execution in the field. For example, there is no clear guidance on fee adjustments, passport replacement procedures, or administrative system adjustments that may be required.

Although the Government Regulation remains in effect and can be implemented, the lack of implementing regulations can hinder the effective application of the policy. Without implementing regulations, immigration officials may face difficulties consistently applying the changes, potentially leading to misalignment in passport administration processes. Moreover, the public may experience confusion or uncertainty about how the new regulation affects them, which could reduce user satisfaction and increase the administrative burden on immigration authorities.

### **Legal Reforms Needed to Address Legal Uncertainty Arising from Changing Passport Validity to 10-Years**

Legal reform is a crucial step in addressing legal uncertainty arising from the policy change of passport validity to 10 years, as stipulated in Government Regulation Number 51 of 2020. Although this change is designed to enhance the efficiency and security of immigration administration, it has raised several challenges related to implementation that require attention and adjustments. Legal uncertainty arises due to the absence of implementing regulations needed to govern the technical and procedural details of this new policy. Therefore, comprehensive and systematic legal reform is needed to resolve these issues, ensuring the policy can be executed effectively and providing clarity to all relevant parties.

The issuance of implementing regulations is a crucial step to ensure the effective implementation of the new policy stipulated in Government Regulation Number 51 of 2020 regarding the 10-year passport validity. Without implementing regulations, the policy may face obstacles in its field application, resulting in uncertainty for passport applicants and additional administrative burdens for immigration officers. The implementing regulations will provide detailed guidelines to regulate various technical and procedural aspects of this new policy, allowing immigration administration processes to run smoothly and as expected. The elements that should be included in the implementing regulations cover several key aspects.

1. Administrative procedures must be detailed to manage the issuance and renewal of passports with a 10-year validity period. This includes registration stages, document verification, and other administrative processes that should be adjusted according to the policy changes. Clear procedures will help reduce confusion among passport applicants and ensure steps are taken according to the established standards.
2. Tariff adjustments must be included in the implementing regulations to reflect the longer passport validity period. It involves revising the fee structure and administrative tariffs related to passport issuance and renewal. The implementing regulations should set out the new tariffs

so that passport applicants are aware of the costs they need to bear, avoiding any financial uncertainty that may arise due to this change.

3. Passport blank management also needs to be detailed in the implementing regulations. With a longer validity period, the management of passport blanks becomes more complex, particularly concerning procurement, storage, and distribution. The implementing regulations must include mechanisms to ensure the availability of adequate passport blanks, efficient stock management, and to avoid shortages or surpluses that could disrupt public service.

To accommodate the extended passport validity period as stipulated in Government Regulation Number 51 of 2020, improvements and adjustments to the immigration administration system are essential. The extended passport validity from 5 to 10 years brings new challenges in travel document management and requires updates to the administration system to handle these changes effectively. Administrative system improvements are needed to support the issuance and renewal processes of passports with longer validity. The immigration administration system must be modified to handle various aspects related to the longer validity period, including recording validity periods in the database system, managing expired passport replacements, and adjusting document quality control mechanisms. This includes the development or updating of software to ensure that passport validity data is automatically and accurately updated, as well as system integration that facilitates the monitoring and management of issued passports.

Updating administrative procedures is crucial to ensuring the smooth implementation of the new policy. Existing administrative procedures need to be adjusted to accommodate the longer passport validity period, including adjustments in the application, verification, and issuance processes. Steps such as document checks, application processing, and data management must be updated to handle 10-year valid passports, ensuring that these procedures remain efficient and meet the latest security standards. Information system updates must be carried out to effectively manage the 10-year passport validity. The immigration information system needs to be upgraded to reflect changes in passport validity, including adjustments in registration, reporting, and monitoring systems. This also involves developing additional modules or enhancing existing system applications to support real-time monitoring of passport validity and updating the database with relevant information on passport status and validity.

The drafting and harmonization of regulations are crucial to ensure that Government Regulation Number 51 of 2020 regarding the 10-year passport validity is implemented consistently and effectively. This process involves creating or updating relevant related regulations to align all rules and procedures with the new policy, to avoid inconsistencies and ensure smooth implementation. Updating related regulations on tariffs must be undertaken to reflect changes in passport validity. Administrative tariffs for the issuance and renewal of passports need to be adjusted according to the longer passport duration. Existing regulations must be updated to set fair and appropriate tariffs, ensuring that the costs imposed on passport applicants align with the new policy. This update should also consider aspects of transparency and fairness, so it does not burden the public and remains adequate for funding the operational needs of immigration institutions.

Adjustments to regulations regarding the validity of travel documents are equally important. Current regulations must be revised to include changes in passport validity from 5 to 10 years. This includes revising rules governing the issuance and management of passports, as well as updating other related travel documents such as visas and residence permits. Harmonized regulations will help avoid confusion among passport applicants and ensure that all issued travel documents are consistent with the new policy. Adjustments to administrative procedures are also needed to accommodate the longer passport validity. Regulations should cover new administrative procedures for issuing and renewing passports, including archive management, validity monitoring, and mechanisms for replacing expired passports. This also involves updating standard operating procedures (SOPs) and technical guidelines for immigration officers to ensure that administrative processes run efficiently and according to the established policy.

In dealing with legal uncertainty arising from changes in passport validity policy, it is important to plan long-term solutions that can address the issue and mitigate potential future risks. One of the main solutions is developing an adaptive and responsive legal framework. A flexible legal framework will allow quick and efficient regulation updates to respond to changes in global immigration policies or new technological developments. This involves creating systems for regular assessment and updating of current regulations and procedures to ensure their relevance and effectiveness in addressing new challenges. Furthermore, forming a working group or special committee to monitor and manage

immigration policy changes is also a strategic step. This team can be tasked with evaluating the impact of the new policy, identifying shortcomings in implementation, and suggesting necessary improvements or adjustments. With a focused working team on these issues, it will be easier to respond to legal and administrative issues that may arise and to design better policies in the future.

Strategic planning for adaptation to global immigration policy changes is another important consideration. Changes in international immigration policies, such as harmonizing passport standards or introducing new technologies in the immigration system, require careful planning to ensure that domestic policies remain aligned with global trends. This includes monitoring and analyzing international trends, as well as planning for the integration of new systems or procedures that align with global developments. Investment in technology and training is also a crucial long-term solution. The development and implementation of advanced information technology systems can enhance the efficiency of immigration administration and reduce the risk of errors or legal uncertainties. Additionally, regular training for immigration officers on the latest regulations and new technologies will ensure that they can effectively handle changes and provide high-quality services to the public.

## CONCLUSION

The legal uncertainty stemming from the change to a 10-year passport validity policy, as outlined in Government Regulation Number 51 of 2020, arises from a lack of detailed implementing regulations, leading to confusion in administrative procedures, tariff adjustments, and passport form management. The absence of clear guidelines complicates the implementation for immigration officials and risks disrupting administrative efficiency, highlighting the need for coordinated regulations and an updated administrative system. To resolve these issues, comprehensive legal reforms are necessary, including the formulation of specific regulations, updates to information systems, and the establishment of a flexible legal framework with dedicated policy monitoring. Future research could evaluate the effectiveness of these reforms by comparing implementation outcomes, gathering insights from immigration officials and passport applicants, and conducting longitudinal studies on the adaptability of the legal framework in response to evolving immigration policies, along with assessing the impact of technology and training on service delivery.

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