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## Indonesia

### **ACT OF THE REPUBLIC OF INDONESIA NUMBER 13 YEAR 2003 CONCERNING MANPOWER, 2003**

( Act No. 13 of 25 March 2003)

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*Provisional Unofficial Translation*

Translated by ILO Jakarta

State Gazette of The Republic of Indonesia  
No. 39, 2003 MANPOWER. *Labour. Work Agreement. Employment Relations. Inspection. Termination of Employment. Workers' Institute. Wages. Central Government. Regional Governments.* ([Explanation in the Supplement to the State Gazette of the State of the Republic of Indonesia Number 4279.](#))

WITH THE GRACE OF THE ONE AND ONLY GOD,

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. That Indonesia's national development shall be implemented within the framework of building Indonesians as fully-integrated human beings and of building the whole Indonesian society in order to realize a society in which there shall be welfare, justice and prosperity based on equity both materially and spiritually with the *Pancasila* and the 1945 Constitution at its foundation.
- b. That in the implementation of national development, workers have a very important role and position as actors of development as well as the goal of development itself;
- c. That in accordance with the role and position of workers, manpower development is required to enhance the quality of workers as well as their role and participation in national development and in improving protection for workers and their families in respect to human dignity and values;
- d. That protection of workers is intended to safeguard the fundamental rights of workers and to secure the implementation of equal opportunity and equal treatment without discrimination on whatever basis in order to realize the welfare of workers/ labourers and their family by continuing to observe the development of progress made by the world of business;
- e. That several acts on manpower are considered no longer relevant to the need and demand of manpower development and hence, need to be abolished and/or revoked;
- f. That based on the considerations as referred to under points a, b, c, d and e, it is necessary to establish an Act on Manpower.

In view of: Article 5 Subsection (1), Article 20 Subsection (2), Article 27 Subsection (2), Article 28 and Article 33 Subsection (1) of the 1945 Constitution.

**With the joint approval between**  
**THE HOUSE OF REPRESENTATIVES OF**  
**THE REPUBLIC OF INDONESIA**  
**AND**  
**THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

**DECIDES:**

To establish: ACT CONCERNING MANPOWER [INDONESIAN LABOUR LAW]

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**CHAPTER ONE**  
**GENERAL DEFINITIONS**

**Article 1**

Under this act, the following definitions shall apply:

1. **Manpower affairs** or **labour** (*ketenagakerjaan*) refer to every matter that is related to people who are needed or available for a job (*tenaga kerja*) before, during and after their employment.

[Translator's note: the word *ketenagakerjaan* means 'labour,' which can be referred to in a narrow sense as 'the services performed by workers for wages,' or in the broadest sense of the term as 'human activity that provides the goods or services in an economy,' which includes the activity of not just workers but also enterprises and the government as well. However, the word *ketenagakerjaan* may also mean 'every matter that is related to manpower or workers' and therefore, the phrase 'manpower affairs' is here also used in the translation.]

2. **People available for a job** or **person available for a job** (*tenaga kerja*) is every individual or person who is able to work in order to produce goods and/ or services either to fulfill his or her own needs or to fulfill the needs of the society.

3. A **worker** (*pekerja*) / **labourer** (*buruh*) is every person who works for a wage or other forms of remuneration.

4. An **employer** (*pemberi kerja*) shall refer to individuals, entrepreneurs, legal entities, or other bodies that employ manpower by paying them wages or other forms of remuneration.

5. An **entrepreneur** (*pengusaha*) shall be defined as:

- a. An individual [proprietor], a partnership or a legal body that runs an enterprise that he or she or it owns;
- b. An individual, a partnership or a legal body that independently runs an enterprise that does not belong to him, her or it;
- c. An individual, a partnership or a legal body that is situated in Indonesia but represents an enterprise as referred to under point a and point b that has its seat/ base outside the territory of Indonesia.

6. An **enterprise** (*perusahaan*) shall refer to

- a. Every form of business [undertaking], which is either a legal body or not, which is owned by an individual, a partnership or a legal body that is either privately owned or state owned, which employs workers/ labourers by paying them wages or other forms of remuneration;
- b. Social undertakings and other undertakings with officials in charge and which employ people by paying them wages or other forms of remuneration.

7. **Manpower planning** (*perencanaan tenaga kerja*) shall refer to the process of making a manpower plan systematically that is used as a basis and reference for formulating the policy, strategy and implementation of a sustainable manpower development program.

8. **Manpower information** (*informasi ketenagakerjaan*) shall refer to a group, a set or series and an analysis of data in the form of processed numbers, texts and documents that have specific meanings, values and messages concerning labour.

9. **Job training** (*pelatihan kerja*) shall refer to the whole activities of providing [workers or potential workers with, and paving the way for them to] acquire, enhance and develop job competence, productivity, discipline, work attitude and ethics until a [desired]

level of skills and expertise that match the grade and qualifications required for a position or a job is reached.

10. **Job competence** or **competency** (*kompetensi kerja*) shall refer to the capability of each individual that covers aspects of knowledge, skills and work attitude which accords with prescribed standards.

11. **Apprenticeship** (*pemagangan*) shall be defined as part of a job training system that integrates training at a training institute with working directly under the tutelage and supervision of an instructor or a more experienced worker/ labourer in the process of producing goods and/ or services in an enterprise in order to master a certain skill or trade.

12. **Job placement service** (*pelayanan penempatan tenaga kerja*) shall be defined as an activity aimed at matching up manpower with employers so that manpower get jobs that are suitable to their talents, interest and capability and employers get the manpower they need.

13. **People of foreign citizenship available for a job** (*tenaga kerja asing*) shall refer to visa holders of foreign citizenship [who come to Indonesia] with the intention of finding employment within Indonesia's territory.

14. **An [individual] work agreement** (*perjanjian kerja*) shall be defined as an agreement made between a worker/ labourer and an entrepreneur or an employer. The agreement specifies work requirements, rights and obligations of both sides.

15. **An employment relation or relationship** (*hubungan kerja*) shall be defined as a relationship between an entrepreneur and a worker/ labourer based on a work/ employment agreement, which deals with aspects relating to the job [that the worker has to do], the worker's wage, and orders and instructions [that the worker has to carry out].

16. **An industrial relation** (*Hubungan Industrial*) shall be defined as a system of relations that take shape among actors in the process of producing goods and/or services, which consist of employers, workers/ labourers and the government, which is based on the values of the *Pancasila* and the 1945 Constitution of the

Republic of Indonesia.

17. **A trade union** (*serikat pekerja*) / **labour union** (*serikat buruh*) shall be defined as an organization that is formed [established] from, by and for workers/ labourers either within an enterprise or outside of an enterprise, which is free, open, independent, democratic, and responsible in order to strive for, defend and protect the rights and interests of the worker/ labourer and increase the welfare of the worker/ labourer and their families.

18. **A bipartite cooperation forum** (*forum kerjasama bipartit*) shall refer to a communication and consultation forum on matters pertaining to industrial relations in an enterprise whose members consist of entrepreneurs and trade/ labour unions that have been registered at a government agency responsible for manpower affairs or workers/ labourers' representatives (*unsur pekerja*).

19. **A tripartite cooperation institute** (*lembaga kerjasama tripartit*) shall refer to a communication, consultation and deliberation forum on manpower issues (problems) whose members consist of representatives from entrepreneurs' organizations, workers/ labourers' organizations and the government.

20. **Enterprise rules and regulations** (*peraturan perusahaan*) shall refer to [a set of] rules and regulations made in writing by an entrepreneur that specify work requirements and the enterprise's discipline and rule of conduct.

21. **A collective work agreement** (*perjanjian kerja bersama*) is an agreement resulted from negotiations between a trade/ labour union or several trade/ labour unions registered at a government agency responsible for manpower affairs and an entrepreneur or several entrepreneurs or an association of entrepreneurs. The agreement shall specify work requirements, rights and obligations of both sides.

22. **An industrial relations dispute** (*perselisihan hubungan industrial*) is a difference of opinion that results in a conflict between an entrepreneur or an association of entrepreneurs and a worker/ labourer or a trade/ labour union because of dispute over rights, interests and termination of employment and dispute between a trade/ labour union and another trade/ labour union in the same enterprise.

23. **A strike** (*mogok kerja*) is a collective action of workers/ labourers, which is planned and carried out by a trade/ labour union to stop or slower work.

24. **A lockout** (*penutupan perusahaan*) is the entrepreneur's action of refusing the worker/ labourer in whole or in part to perform work.

25. **The severance of an employment relationship** (*pemutusan hubungan kerja*) is termination of employment relationship because of a certain thing that results in the coming of an end of the rights and obligations of both the worker/ labourer and the entrepreneur. [Note: *pemutusan hubungan kerja* is normally translated as "termination of employment."]

26. **A child** (*anak*) is every person who is under 18 (eighteen) years old.

27. **Day [daylight]** (*siang hari*) is a period of time between 6am to 6pm.

28. **1 (one) day** is a period of time of 24 (twenty four) hours.

29. **A week** (*seminggu*) is a period of 7 (seven) days.

30. **A wage** (*upah*) is the right of the worker/ labourer that is received and expressed in the form of money as remuneration from the entrepreneur or the employer to workers/ labourer, whose amount is determined and paid according to a [formal and written] work agreement (*perjanjian kerja*), a deal (*kesepakatan*), or laws and regulations, including allowances for the worker/ labourer and their family for a job and or service that has been performed or will be performed.

31. Workers/ **labourers' welfare** (*kesejahteraan pekerja*) is a fulfillment of physical and spiritual needs and/or necessities [of the worker] either within or outside of employment relationships that may directly or indirectly enhance work productivity in a working environment that is safe and healthy.

32. **Labour inspection** (*pengawasan ketenagakerjaan*) shall refer to the activity of controlling and enforcing the implementation of laws and regulations in the field of manpower.



33. **Minister** (*menteri*) shall refer to the minister responsible for manpower affairs.

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## **CHAPTER TWO STATUTORY BASES, BASIC PRINCIPLE AND OBJECTIVES**

### **Article 2**

Manpower development shall have the *Pancasila* and the 1945 Constitution as its statutory bases.

### **Article 3**

Manpower development shall be carried out based on the basic principle of integration through functional, cross-sector, central, and provincial/municipal coordination.

### **Article 4**

Manpower development aims at:

- a. Empowering and making efficient use of people available for a job optimally and humanely;
- b. Creating equal opportunity and providing manpower (supply of people available for a job) that suits the need of national and provincial/ municipal developments;
- c. Providing protection to people available for a job for the realization of welfare; and
- d. Improving the welfare of people available for a job and their family.

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## **CHAPTER III EQUAL OPPORTUNITIES**

### **Article 5**

Every person available for a job shall have the same opportunity to get a job without discrimination.

### **Article 6**

Every worker/ labourer has the right to receive equal treatment without discrimination from their employer.

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## **CHAPTER IV MANPOWER PLANNING AND MANPOWER INFORMATION**

### **Article 7**

(1) For the sake of manpower development, the government shall establish manpower policy and develop manpower planning.

(2) Manpower planning shall include:

- a. Macro manpower planning; and
- b. Micro manpower planning.

(3) In formulating policies, strategies, and implementation of sustainable manpower development program, the government must use the manpower planning as referred to under subsection (1) as guidelines.

### **Article 8**

(1) Manpower planning shall be developed on the basis of manpower information, which, among others, includes information concerning:

- a. Population and people available for a job;
- b. Employment opportunity;
- c. Job training including job competence;
- d. Workers' productivity;
- e. Industrial relations;
- f. Working environment condition;
- g. Wages system and workers' welfare; and
- h. Social security for the employed.

(2) The manpower information as referred to under subsection (1) shall be obtained from all related parties, including from government and private agencies.

(3) Provisions concerning procedures for acquiring manpower information as well as procedures for the formulation and implementation of manpower planning as referred to under subsection (1) shall be regulated with a Government Regulation.

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## **CHAPTER V JOB TRAINING**

### **Article 9**

Job training is provided and directed to instill, enhance, and develop job competence in order to improve ability, productivity and welfare.

### **Article 10**

(1) Job training shall be carried out by taking into account the need of the job market and the need of the business community, either within or outside [the scope] of employment relations.

(2) Job training shall be provided on the basis of training programs that refer to job competence standards.

(3) Job training may be administered step by step.

(4) Provisions concerning procedures for establishing job competence standards as referred to under subsection (2) shall be regulated with a Ministerial Decision.

### **Article 11**

People available for a job has the right to acquire and/or improve and/or develop job competence that is suitable to their talents, interest and capability through job training.

### **Article 12**

(1) Entrepreneurs are responsible for improving and or developing their workers' competence through job training.

(2) Entrepreneurs who have meet the requirements stipulated with a Ministerial Decision are under an obligation to improve and or develop the competence of their workers as referred to under subsection (1)

(3) Every worker/ labourer shall have equal opportunity to take part in a job training that is relevant to their field of duty.

### **Article 13**

(1) Job training shall be provided by government job-training institutes and/or private job-training institutes.

(2) Job training may be provided in a training place or in the workplace.

(3) In providing job training, government job-training institutes as referred to under subsection (1) may work together with the

private sector.

#### **Article 14**

(1) A private job-training institute can take the form of an Indonesian legal entity or individual proprietorship.

(2) Private job-training institutes as referred to under subsection (1) are under an obligation to have a permit or register with the agency responsible for manpower affairs in the district/ city [of their operation].

(3) A job-training institute run by a government agency shall register its activities at the government agency responsible for manpower affairs in the district/ city [where it operates].

(4) Provisions concerning procedures for acquiring a permit from the authorities and registration procedures for job training institutes as referred to under subsection (2) and subsection (3) shall be regulated with a Ministerial Decision.

#### **Article 15**

Job training providers are under an obligation to make sure that the following requirements are met:

- a. The availability of trainers;
- b. The availability of a curriculum that is suitable to the level of job training to be given;
- c. The availability of structures and infrastructure for job training; and
- d. The availability of fund for the perpetuation of the activity of providing job training.

#### **Article 16**

(1) Licensed private job training institutes and registered government-sponsored job training institutes may obtain accreditation from accrediting agencies.

(2) The accrediting agencies as referred to under subsection (1) shall be independent, consisting of community and government constituents, and shall be established with a Ministerial Decision.

(3) The organization and procedures of work of the accrediting agencies as referred to under subsection (2) shall be regulated with a Ministerial Decision.

## **Article 17**

(1) The government agency responsible for labour/ manpower affairs in a district/ city may temporarily terminate activities associated with the organization and administration of a job training in the district/ city if it turns out that the implementation of the job training:

- a. Is not in accordance with the job training directions as referred to under Article 9; and/or
- b. Does not fulfill the requirements as referred to under Article 15.

(2) The temporary termination of activities associated with the organization and administration of job training as referred to under subsection (1) shall be accompanied with the reasons for the temporary termination and suggestions for corrective actions and shall apply for no longer than 6 (six) months.

(3) The temporary termination of the implementation of the administration of job training only applies to training programs that do not fulfill the requirements as specified under Article 9 and Article 15.

(4) Job training providers who, within a period of 6 months, do not fulfill and complete the suggested corrective actions as referred to under subsection (2) shall be subjected to a sanction that rules the termination of their training programs.

(5) Job training providers who do not obey [the sanction] and continue to carry out the training programs that have been ordered for termination as referred to under subsection (4) shall be subjected to a sanction that revokes their licenses and cancels their registrations as job training providers.

(6) Provisions concerning procedures for temporary termination, termination, revocation of license, and cancellation of registration shall be regulated with a Ministerial Decision.

## **Article 18**

(1) People available for a job shall be entitled to receive job competence recognition after participating in job training provided by government job training institutes, private job training institutes, or after participating in job training in the workplace.

(2) The job competence recognition as referred to under subsection (1) shall be made through job competence certification.

(3) People available for a job with experience in the job may, despite their experience, take part in the job training as referred to under subsection (1) in order to obtain job competence certification as referred to under subsection (2).

(4) To provide job competence certification, independent profession-based certification agencies shall be established.

(5) Provisions concerning the procedures for the establishment of certification agencies as referred to under subsection (4) shall be regulated with a Presidential Decision.

### **Article 19**

The provision of job training to people with disability who are available for a job shall take into account the type and severity of the disability and their ability [to carry out the job].

### **Article 20**

(1) To support the improvement of job training for the sake of manpower development, a national job-training system that serves as a reference for the administration of job training in all fields of work and/or all sectors [of industry] shall be developed.

(2) Provisions concerning the form, mechanism and institutional arrangements of the national job-training system as referred to under subsection (1) shall be determined and specified with a Government Regulation.

### **Article 21**

Job training may be administered by means of apprenticeship systems.

### **Article 22**

(1) Apprenticeship shall be carried out based on an apprenticeship agreement made in writing between the apprenticeship participant [the apprentice] and the entrepreneur.

(2) The apprenticeship agreement as referred to under subsection (1) shall at least have stipulations explaining the rights and obligations of both the participant and the entrepreneur as well as the period of apprenticeship.

(3) Any apprenticeship administered without an apprenticeship agreement as referred to under subsection (2) shall be declared illegal and as a consequence, the status of the apprenticeship's participants shall be upgraded to that of the workers/ labourers of the enterprise [which employs them as apprentices].

### **Article 23**

People available for a job who have completed an apprenticeship program are entitled to get their job competence and qualifications recognized by enterprises or by certification agency.

### **Article 24**

Apprenticeship can take place at one's own enterprise, at the place where job training is administered, or at another enterprise, within or outside of Indonesia's territory.

### **Article 25**

(1) Permission from Minister or another government official who has been appointed to act on behalf of the Minister is required to administer apprenticeship for Indonesian workers/ labourers that will take place outside of Indonesia's territory.

(2) In order to obtain the permission as referred to under subsection (1), the organizer of the apprenticeship must be in the form of an Indonesian legal entity in accordance with the valid statutory legislation.

(3) Provisions concerning the procedures for obtaining permission for apprenticeship organized outside of Indonesia's territory as referred to under subsection (1) and subsection (2) shall be regulated with a Ministerial Decision.

### **Article 26**

(1) Any apprenticeship administered outside of Indonesia's territory must take into account:

- a. The dignity and standing of Indonesians as a nation;
- b. Mastery of a higher level of competence; and
- c. Protection and welfare of apprenticeship participants, including their rights to perform religious obligations.

(2) The Minister or another government official appointed to act on the Minister's behalf may order the termination of any apprenticeship taking place outside of Indonesia's territory if it

turns out that its administration does not accord with what is stipulated under subsection (1).

### **Article 27**

(1) Minister may require qualified enterprises to administer apprenticeship programs.

(2) In determining and establishing the requirements for administering apprenticeship programs as referred to under subsection (1), Minister must take into account the interests of the enterprise, the society and the State.

### **Article 28**

(1) In order to provide recommendation and consideration in the establishment of policies and coordination of job training and apprenticeship activities, a national job training coordinator institute shall be established.

(2) The formation, membership and procedures of work of the national job training coordinator institute as referred to under subsection (1) shall be determined and specified with a Presidential Decision.

### **Article 29**

(1) The Central Government and/or Regional Governments [District/ City Governments] shall develop job training and apprenticeship.

(2) The development of job training and apprenticeship [by the government as referred to under subsection (1)] shall be directed to improve the relevance, quality, and efficiency of job training administration and productivity.

(3) Efforts to improve productivity as referred to under subsection (2) shall be made through the development of productive culture, work ethics, technology and efficiency of economic activities directed towards the realization of national productivity.

### **Article 30**

(1) In order to enhance productivity as referred to under subsection (2) of Article 29, a national productivity institute shall be established.

(2) The national productivity institute as referred to under



subsection (1) shall be in the form of an institutional productivity enhancement service network, which supports cross-sector and cross-regional activities/ programs.

(3) The formation, membership and procedures of work of the national productivity institute as referred to under subsection (1) shall be determined and specified by a Presidential Decision.

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## **CHAPTER VI JOB PLACEMENT**

### **Article 31**

Every body who is available for a job shall have equal rights and opportunities to choose a job, get a job, or move to another job and earn decent income irrespective of whether they are employed at home or abroad.

### **Article 32**

(1) Job placement shall be carried out based on transparency, respect for each other's freedom, objectivity, fairness and equal opportunity without discrimination.

(2) Job placement shall be directed to place people available for work in the right job or position which best suits their skills, trade, capability, talents, interest and ability by observing their dignity and rights as human beings as well as [providing them with] legal protection.

(3) Job placement shall be carried out by taking into account the equal distribution of equal opportunity and the available supply of manpower in accordance with the needs of the national and regional development programs.

### **Article 33**

The placement of people available for a job consists of:

- a. The placement of people available for a job at home;
- b. The placement of people available for a job in foreign countries.

### **Article 34**

Provisions concerning the placement of people available for a job in

foreign countries as referred to under Article 33 point b shall be regulated with an act.

### **Article 35**

(1) Employers who need workforce may recruit by themselves the workforce they need or have them recruited through job placement agencies.

(2) Job placement agencies as referred to under subsection (1) are under an obligation to provide protection to people available for a job that they try to find a placement for since their recruitment takes place until their placement is realized.

(3) In employing people who are available for a job, the employers as referred to under subsection (1) are under an obligation to provide [them with] protection, which shall include protection for their welfare, safety and health, both mental and physical.

### **Article 36**

(1) The placement of people available for a job by a job placement agency as referred to under subsection (1) of Article 35 shall be carried out through the provision of job placement service.

(2) Job placement service as referred to under subsection (2) shall be provided/ rendered in an integrated manner within a job placement system to which the following elements are part:

- a. Job seekers;
- b. Vacancies;
- c. Job [or labour] market information;
- d. Inter-job mechanisms; and
- e. Institutional arrangements for job placement.

(1) Activities connected with the elements of the job placement system as referred to under subsection (2) can take place separately and are aimed at the realization of the placement of people available for a job.

### **Article 37**

(1) Job placement agencies as referred to under subsection (1) of Article 35 consist of:

- a. Government agencies responsible for labour/ manpower affairs; and

b. Private agencies with legal status.

(2) In order to provide job placement service, the private agency as referred to under subsection (1) point b is under an obligation to possess a written permission from Minister or another government official who has been appointed to act on Minister's behalf.

**Article 38**

(3) Job placement agencies as referred to under point a subsection (1) of Article 37 are prohibited from collecting placement fees, either directly or indirectly, in part or in whole, from people available for work whom they find a placement for and their users.

(4) Private job placement agencies as referred to under point b subsection (1) of Article 37 may only collect placement fees from users of their service and from workers of certain ranks and occupation whom they have placed.

(5) The ranks and occupation as referred to under subsection (2) shall be regulated with a Ministerial Decision.

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**CHAPTER VII  
EXTENSION OF JOB OPPORTUNITIES**

**Article 39**

(1) The government is responsible for making efforts to extend job opportunities either within or outside of employment relationships.

(2) The government and the society shall jointly make efforts to extend job opportunities either within or outside of employment relationships.

(3) All the government's policies, either at the central or regional level and in each sector, shall be directed to realize the extension of job opportunities either within or outside of employment relationships.

(4) Financial institutions, be they banks or non-banks, and the world of business need to help and facilitate each activity of the society which can create or develop extension of job opportunities.

**Article 40**

(1) Extension of employment opportunities outside of employment relationships shall be undertaken through the creation of productive and sustainable activities by efficient use of natural resource potentials, human resources, and effective practical technologies (*teknologi tepat guna*).

(2) Extension of employment opportunities as referred to under subsection (1) shall be undertaken through patterns of formation and development for the self-employed, the application of labour-intensive system, the application and development of effective practical technology, and efficient use of volunteers or other patterns that may encourage the creation of job opportunity extension.

### **Article 41**

(1) The government shall determine labour policies and policies on job opportunity extension.

(2) The government and the society shall jointly exercise control over the implementation of the policies as referred to under subsection (1).

(3) In implementing the duty as referred to under subsection (2), a coordinating body with government and society constituents as its members may be established.

(4) Provisions concerning the extension of job opportunities as referred to under Article 39 and Article 40 and the formation of a coordinating body as referred to under subsection (3) of this Article shall be regulated with a Government Regulation.

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## **CHAPTER VIII EMPLOYMENT OF WORKERS OF FOREIGN CITIZENSHIP**

### **Article 42**

(1) Every employer that employs workers of foreign citizenship is under an obligation to obtain written permission from Minister.

(2) An employer who is an individual person [not a corporate] is prohibited from employing workers of foreign citizenship.

(3) The obligation to obtain permission from Minister as referred to

under subsection (1) does not apply to representative offices of foreign countries in Indonesia that employ foreign citizens as their diplomatic and consular employees.

(4) Workers of foreign citizenship can be employed in Indonesia in employment relations for certain positions and for a certain period of time only.

(5) Provisions concerning certain positions and certain periods of time as referred to under subsection (4) shall be determined and specified with a Ministerial Decision.

(6) Workers of foreign citizenships as referred to under subsection (4) whose working period has expired and cannot be extended may be replaced by other workers of foreign citizenships.

### **Article 43**

(1) Employers of workers of foreign citizenship must have plans concerning the use of manpower of foreign citizenship that are legalized by Minister or another government official appointed to act on his behalf.

(2) The plans for the use of manpower of foreign citizenship as referred to under subsection (1) shall at least contain the following information:

- a. The reasons why the service of workers of foreign citizenship is needed or required.
- b. The position and or occupation of the workers of foreign citizenship in question within the organizational structure of the enterprise.
- c. The timeframe set for the use of the workers of foreign citizenship [how long they will be employed]; and
- d. The appointment of workers of Indonesian citizenship as accompanying counterpart/ assistant partners (*tenaga pendamping*) for the workers of foreign citizenship that is being employed.

(3) The stipulation/ ruling as referred to under subsection (1) does not apply to government agencies, international agencies and representative diplomatic offices of foreign countries.

(4) Stipulations concerning the procedures for the legalization of plans concerning the use of manpower of foreign citizenship shall

be regulated with a Ministerial Decision.

#### **Article 44**

(1) Employers of workers of foreign citizenship are under an obligation to obey the existing, valid rulings/ stipulations concerning occupations and applicable competence standards.

(2) Stipulations concerning occupations and competence standards as referred to under subsection (1) shall be regulated with a Ministerial Decision.

#### **Article 45**

(1) Employers who employ workers of foreign citizenship are under an obligation:

- a. To appoint workers of Indonesian citizenship as accompanying working partners for workers of foreign citizenship whereby the workers of foreign citizenship shall transfer technologies and their expertise to their Indonesian working partners
- b. To educate and train workers of Indonesian citizenship, as referred to under point a, until they have the qualifications required to occupy the positions currently occupied by workers of foreign citizenship.

(2) Stipulations as referred to under subsection (1) do not apply to workers of foreign citizenship who occupy the position of management (*direksi*) and/or the position of director (*komisaris*) of the enterprise.

#### **Article 46**

(1) No worker of foreign citizenship is allowed to occupy positions that deal with personnel and/or occupy certain positions.

(2) The certain positions as referred to under subsection (1) shall be determined and specified with a Ministerial Decision.

#### **Article 47**

(1) Employers are obliged to pay compensation for each worker of foreign citizenship they employs.

(2) The obligation to pay compensation as referred to under subsection (1) does not apply to government agencies, international agencies, social and religious undertakings and certain

positions in educational institutions.

(3) Stipulations/ rulings concerning certain positions in educational institutions as referred to under subsection (2) shall be determined and specified with a Ministerial Decision.

(4) Stipulations/ rulings concerning the amount of compensation and its use shall be determined and specified with a Government Regulation.

### **Article 48**

Employers who employ workers of foreign citizenship are under an obligation to repatriate the workers of foreign citizenship to their countries of origin after their employment comes to an end.

### **Article 49**

Provisions concerning the procedures for the use of workers of foreign citizenship and the implementation of education and training for their accompanying working partners shall be determined and specified with a Government Regulation.

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## **CHAPTER IX EMPLOYMENT RELATIONS**

### **Article 50**

Employment relation exists because of the existence of a work agreement between the entrepreneur and the worker/ labourer.

### **Article 51**

(1) Work agreements can be made either orally or in writing.

(2) Work agreements that specify requirements in writing shall be carried out in accordance with valid legislation.

### **Article 52**

(1) A work agreement shall be made based on:

- a. The agreement of both sides;
- b. The capability or competence to take legally-sanctioned actions;
- c. The availability/ existence of the job which both sides have agreed about;

d. The notion that the job which both sides have agreed about does not run against public order, morality and what is prescribed in the valid legislation.

(2) If a work agreement, which has been made by both sides, turns out to be against what is prescribed under point a and point b of subsection (1), the agreement may be abolished/ canceled.

(3) If a work agreement, which has been made by both sides, turns out to be against what is prescribed under point c and point d of subsection (1), the agreement shall be declared null and void by law.

### **Article 53**

Everything associated with, and or the costs needed for, the making of a work agreement shall be borne by, and shall be the responsibility of, the entrepreneur.

### **Article 54**

(1) A written work agreement shall at least include:

- a. The name, address and line of business [of the enterprise];
- b. The name, sex, age and address of the worker/ labourer;
- c. The occupation or the type of job;
- d. The place, where the job is to be carried out;
- e. The amount of wages and how the wages shall be paid;
- f. Job requirements stating the rights and obligations of both the entrepreneur and the worker/ labourer;
- g. The date the work agreement starts to take effect and the period during which it is effective;
- h. The place and the date where the work agreement is made; and
- i. The signatures of the parties involved in the work agreement.

(2) The rulings in a work agreement as far as point e and point f of subsection (1) are concerned must not run against the enterprise's rules and regulations, the enterprise's collective work agreement and valid statutory legislation [valid laws and regulations].

(3) A work agreement as referred to under subsection (1) shall be



made in 2 (two) equally legally binding copies, 1 (one) copy of which shall be kept by the entrepreneur and the other by the worker/ labourer.

### **Article 55**

A work agreement cannot be withdrawn and/or changed unless both sides in the agreement agree to do so.

### **Article 56**

(1) A work agreement may be made for a specified period of time or for an unspecified period of time.

(2) A work agreement for a specified period of time shall be made based on:

- a. A term; or
- b. The completion of a certain job.

### **Article 57**

(1) A work agreement for a specified period of time shall be made in writing and must be written in the Indonesian language with Latin alphabets.

(2) A work agreement for a specified period of time, if made against what is prescribed under subsection (1), shall be regarded as a work agreement for an unspecified period of time.

(3) If a work agreement is written in both the Indonesian language and a foreign language and then differences in interpretation between the Indonesian text and the one in the foreign language arise, then the Indonesian version of the agreement shall be regarded as the authoritative one.

### **Article 58**

(1) A work agreement for a specified period of time cannot stipulate a probation period.

(2) If a work agreement as referred to under subsection (1) stipulates a probation period, however, the probation period shall then be declared null and void by law.

### **Article 59**

(1) A work agreement for a specified period of time can only be made for a certain job, which, because of the type and nature of

the job, will finish in a specified period of time, that is:

- a. Work to be performed and completed at one go or work which is temporary by nature;
- b. Work whose completion is estimated at a period of time which is not too long and no longer than 3 (three) years;
- c. Seasonal work; or
- d. Work that is related to a new product, a new [type of] activity or an additional product that is still in the experimental stage or try-out phase.

(2) A work agreement for a specified period of time cannot be made for jobs that are permanent by nature.

(3) A work agreement for a specified period of time can be extended or renewed.

(4) A work agreement for a specified period of time may be made for a period of no longer than 2 (two) years and may only be extended one time for another period that is not longer than 1 (one) year.

(5) Entrepreneurs who intend to extend work agreements for a specified period of time they have with their workers/ labourers shall notify the said workers/ labourers of the intention in writing within a period of no later than 7 (seven) days prior to the expiration of the work agreements.

(6) The renewal of a work agreement for a specified period of time may only be made after a period of 30 (thirty) days is over since the work agreement for a specified period of employment comes to an end; the renewal of a work agreement for a specified period of time may only be made 1 (one) time [once] and for a period of no longer than 2 (two) years.

(7) Any work agreement for a specified period of time that does not fulfill the requirements referred to under subsection (1), subsection (2), subsection (4), subsection (5) and subsection (6) shall, by law, become a work agreement for an unspecified period of time.

(8) Other matters that have not been regulated under this article shall be further determined and specified with a Ministerial Decision.

## **Article 60**

(1) A work agreement for an unspecified period of time may require a probation period for no longer than 3 (three) months.

(2) During the probation period as referred to under subsection (1), the entrepreneur is prohibited from paying wages less than the applicable minimum wage.

## **Article 61**

(1) A work agreement comes to an end if:

- a. The worker dies; or
- b. The work agreement expires; or
- c. A court ruling and/ or a decision or a resolution of the institute for the settlement of industrial relations disputes, which has permanent legal force, ends the agreement; or
- d. There is a certain situation or incident prescribed in the work agreement, the enterprise's rules and regulations, or the enterprise's collective work agreement which may effectively result in the termination of employment.

(2) A work agreement does not end because the entrepreneur dies or because the ownership of the company has been transferred because the company has been sold, bequeathed to an heir, or awarded as a grant.

(3) In the event of a transfer of ownership of an enterprise, the new entrepreneur [who now owns the enterprise] shall bear the responsibility of fulfilling the entitlements of the worker/ labourer affected by the transfer unless otherwise stated in the transfer agreement, which must not reduce the entitlements of the worker/ labourer.

(4) If the entrepreneur, who is a sole proprietorship, dies, his or her heir may terminate the work agreement after negotiating it with the worker/ labourer.

(5) If a worker/ labourer dies, his or her heir has a rightful claim to [acquire] the worker's entitlements according to the valid statutory legislation or to the entitlements that has been prescribed in the work agreement, the enterprise's rules and regulations, or the enterprise's collective work agreement.

## **Article 62**

If any one of both sides in a work agreement for a specified period of time shall terminate the employment relation prior to the expiration of the agreement, or if their work agreement has to be ended for reasons other than what is given under subsection (1) of Article 61, the side that terminates the relation is obliged to pay compensation to the other side. The amount of the compensation pay shall be the same as the amount of wages that the worker/ labourer in the work agreement is entitled to receive from the point of termination until the expiration of the agreement.

### **Article 63**

(1) If a work agreement for an unspecified period of time is made orally, the entrepreneur is under an obligation to issue a letter of appointment (*surat pengangkatan*) for the worker/ labourer.

(2) The letter of appointment as referred to under subsection (1) shall at least contain information concerning:

- a. The name and address of the worker/ labourer;
- b. The date the worker starts to work;
- c. The type of job or work that the worker is supposed to do;
- d. The amount of wage that the worker is entitled to.

### **Article 64**

An enterprise may hand over part of its work to another enterprise under a written agreement of contract of work or a written agreement for the provision of labour

### **Article 65**

(1) The handover of part of work from an enterprise to another enterprise [a contractor] shall be performed under a written agreement of contract of work.

(2) Work that may be handed over to the other enterprise as referred to under subsection (1) must meet the following requirements:

- a. The work can be kept separate from the main [business] activity [of the enterprise that contracts the work to the other enterprise];
- b. The work is to be undertaken under either a direct order or an indirect order from the [original] party

commissioning the work;

c. The work is an entirely auxiliary activity of the enterprise [that contracts the work to the other enterprise]; and

d. The work [when pending completion while being contracted out to the other enterprise] does not directly inhibit [the] production process [of the enterprise that subcontracts the work to the other enterprise].

(3) The other enterprise as referred to under subsection (1) must be a legal entity.

(4) The protection and working conditions provided to workers/labourers at the other enterprise as referred to under subsection (2) shall at least be the same as the protection and working conditions provided at the enterprise that commissions the contract or shall accord with valid laws and regulations.

(5) Any change and/or addition to what is required under subsection (2) shall be determined and specified further with a Ministerial Decision.

(6) The employment relationship in undertaking the work as referred to under subsection (1) shall be determined and specified with a written employment agreement between the other enterprise and the worker/labourer it employs.

(7) The employment relationship as referred to under subsection (6) may be based on an employment agreement for an unspecified period of time or on an employment agreement for a specified period of time if it meets what is required under Article 59.

(8) If what is stipulated under subsection (2), and subsection (3), is not met, the enterprise that contracts the work to the contractor shall be held legally responsible by law to be the employer of the worker/ labourer employed by the contractor.

[Literal translation: If what is stipulated under subsection (2), and subsection (3), is not fulfilled, then, by law, the status of employment relationship between the worker/ labourer and the enterprise that accepts the contracted work [the contractor] shall change into employment relationship between the worker/ labourer and the enterprise that contracts the work to the contractor.]

(9) In the event of [legally-imposed] change of employer from the

contractor to the contracting enterprise as referred to under subsection (8), the employment relationship between the worker/labourer and the contracting enterprise shall be subjected to the employment relationship as referred to under subsection (7).

## **Article 66**

(1) Workers/ labourers from labour providers/ suppliers [literal translation: enterprises that provide workers/ labourers' service] must not be utilized by employers to carry out their enterprises' main activities or activities that are directly related to production process except for auxiliary service activities or activities that are indirectly related to production process.

(2) Labour providers/ suppliers which provide labour for auxiliary service activities or activities indirectly related to production process must fulfill the following requirements:

- a. There is employment relationship between the worker/labourer and the labour provider;
- b. The applicable employment agreement in the employment relationship as referred to under point a above shall be employment agreement for a specified period of time which fulfills what is required under Article 59 and/or employment agreement for an unspecified period of time made in writing and signed by both sides;
- c. The labour provider shall be responsible for wages and welfare protection, working conditions and disputes that may arise; and
- d. The agreements between enterprises serving as labour providers and enterprises using the labour they provide shall be made in writing and shall include articles as referred to under this act.

(3) Labour providers/ suppliers shall take the form of a legal entity business with license from a government agency responsible for labour/ manpower affairs.

(4) If what is stipulated under subsection (1), point a, point b, and point d of subsection (2), and subsection (3) is not fulfilled, the enterprise that utilizes the service of the labour provider shall be held legally responsible by law to be the employer of workers/labourers provided to it by the labour provider. [Literal translation: If what is stipulated under subsection (1), point a, point b, and

point d of subsection (2), and subsection (3) is not fulfilled then, by law, the status of employment relationship between the worker/ labourer and the labour provider shall change into employment relationship between the worker/ labourer and the enterprise that commissions the labour provider.]

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## **CHAPTER X PROTECTION, PAYMENT OF WAGES AND WELFARE**

### **Part One Protection**

#### ***First Paragraph Disabled persons***

##### **Article 67**

(1) Entrepreneurs who employ disabled workers are under an obligation to provide protection to the workers in accordance with the type and severity of their disability.

(2) The protection for disabled workers as referred to under subsection (1) shall be administered in accordance with valid statutory legislation.

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#### ***The Second Paragraph Children***

##### **Article 68**

Entrepreneurs are not allowed to employ children.

##### **Article 69**

(1) Exemption from what is stipulated under Article 68 may be made for the employment of children aged between 13 (thirteen) years old and 15 (fifteen) years old for light work as long as the job does not stunt or disrupt their physical, mental and social developments.

(2) Entrepreneurs who employ children for light work as referred to under subsection (1) must meet the following requirements:

- a. The entrepreneurs must have written permission from

- the parents or guardians of the children;
- b. There must be a work agreement between the entrepreneur and the parents or guardians of the children;
- c. The entrepreneurs must not require the children to work longer than 3 (three) hours [a day];
- d. The entrepreneurs shall employ the children to work only at day or during the day without disturbing their schooling;
- e. [In employing the children, the entrepreneurs shall meet] occupational safety and health requirements;
- f. A clear-cut employment relation [between the entrepreneur and the child worker/ his or her parent or guardian] must be established; and
- g. The children shall be entitled to receive wages in accordance with valid rulings.

(3) The rulings that are referred to under point a, b, f and point g of subsection (2) shall not apply to children who work for [their parent] in a family business.

### **Article 70**

(1) Children may [be allowed to] do a job or a piece of work at a workplace as part of their school's education curriculum or training which has been made legal by the authorities.

(2) The children as referred to under subsection (1) shall not be younger than 14 (fourteen) years of age.

(3) The job or the piece of work as referred to under subsection (1) may be given to the children on the condition:

- a. That the children are given clear-cut instructions on how to do their job as well as guidance and supervision on how to carry out the work; and
- b. That the occupational safety and health of the children are protected.

### **Article 71**

(1) Children may work or have a job in order to develop their talents and interest.

(2) Entrepreneurs who employ children as referred to under subsection (1) are under an obligation to meet the following



requirements:

- a. That the children are put under direct supervision of their parents or guardians;
- b. That the children are not required to work longer than 3 (three) hours a day; and
- c. That the working conditions and environment where the children work do not disrupt their physical, mental and social developments as well as their education and attendance at school;

(3) Provisions concerning children who work to develop their talents and interest as referred to under subsection (1) and subsection (2) shall be regulated with a Ministerial Decision.

### **Article 72**

In case children are employed together with adult workers/ labourers, the children's workplace must be kept separate from that for adult workers/ labourers.

### **Article 73**

Children shall be assumed to be at work if they are found in a workplace unless there is evidence to prove otherwise.

### **Article 74**

(1) Every body shall be prohibited from employing and involving children in the worst forms of child labour [literal: in the worst jobs].

(2) The worst forms of child labour [literal: the worst jobs] as referred to under subsection (1) include:

- a. All kinds of job in the form of slavery or practices similar to slavery;
- b. All kinds of job that make use of, procure, or offer children for prostitution, the production of pornography, pornographic performances, or gambling;
- c. All kinds of job that make use of, procure, or involve children for the production and trade of alcoholic beverages, narcotics, psychotropic substances, and other addictive substances; and/or
- d. All kinds of job harmful to the health, safety and moral of the child.

(3) The types of jobs that damage the health, safety or moral of the child as referred to under point d of subsection (2) shall be determined and specified with a Ministerial Decision.

### **Article 75**

(1) The government is under an obligation to make efforts to overcome problems concerning or associated with children who work outside of employment relationship.

(2) The efforts as referred to under subsection (1) shall be determined and specified with a Government Regulation.

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### ***Third Paragraph Women***

### **Article 76**

(1) It is prohibited to employ female workers/ labourers aged less than 18 (eighteen) years of age between 11 p.m. until 7 a.m.

(2) Entrepreneurs are prohibited from employing pregnant female workers/ labourers who, according to a doctor's account, are at risk of damaging their health or harming their own safety and the safety of the babies that are in their wombs if they work between 11 p.m. until 7 a.m.

(3) Entrepreneurs who employ female workers/ labourers to work between 11 p.m. until 7 a.m. are under an obligation:

- a. To provide them with nutritious food and drinks; and
- b. To maintain decency/ morality and security in the workplace.

(4) Entrepreneurs are under an obligation to provide return/ roundtrip transport for female workers/ labourers who work between 11 p.m. until 5 a.m.

(5) Provisions as referred to under subsection (3) and subsection (4) shall be regulated with a Ministerial Decision.

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### ***Fourth Paragraph Working Hours***

## **Article 77**

(1) Every entrepreneur is under an obligation to observe the ruling concerning working hours.

(2) The working hours as referred to under subsection (1) shall be arranged as follows:

- a. 7 (seven) hours a day and 40 (forty) hours a week for 6 (six) workdays in a week; or
- b. 8 (eight) hours a day, 40 (forty) hours a week for 5 (five) workdays in a week;

(3) Rulings concerning the working hours as referred to under subsection (2) do not apply to certain business sectors or certain types of work.

(4) Rulings concerning working hours for certain business sectors or certain types of work as referred to under subsection (3) shall be regulated with a Ministerial Decision.

## **Article 78**

(1) Entrepreneurs who require their workers/ labourers to work longer than the amount of working hours determined under subsection (2) of Article 77 must meet the following requirements:

- a. The worker who is required to work longer than the normal working hours agrees to do so;
- b. If the worker is required to work overtime, he or she may work overtime for no longer than 3 (three) hours in a day or 14 (fourteen) hours in a week.

(2) Entrepreneurs who require their workers/ labourers to work overtime as referred to under subsection (1) are under an obligation to pay overtime pay.

(3) Rulings concerning overtime as referred to under subsection (1) point b do not apply to certain business sector or certain jobs.

(4) Rulings concerning overtime and overtime wages as referred to under subsection (2) and subsection (3) shall be determined and specified with a Ministerial Decision.

## **Article 79**

(1) Entrepreneurs are under an obligation to allow their workers/

labourers to take a rest and leave.

(2) The period of rest and leave as referred to under subsection (1) shall include:

- a. The period of rest or a break between working hours that is no shorter than half an hour after working for 4 (four) hours consecutively and this period of rest shall not be inclusive of working hours;
- b. The weekly period of rest that is no shorter than 1 (one) day after 6 (six) workdays in a week or no shorter than 2 (two) days after 5 (five) workdays in a week;
- c. The yearly period of rest that is no shorter than 12 (twelve) workdays if the worker/labourer works for 12 (twelve) months consecutively; and
- d. A long period of rest of no less than 2 (two) months, which shall be awarded in the seventh and eighth year of work each for a period of 1 (one) month to workers/ labourers who have been working for 6 (six) years consecutively at the same enterprise on the condition that the said workers/ labourers will no longer be entitled to their annual period of rest in 2 (two) current years. This ruling shall henceforth be applicable every 6 (six) years of work.

(3) The application of the ruling concerning the period of rest as referred to under point c of subsection (2) shall be determined and specified in a work agreement, the enterprise's rules and regulations or a collective work agreement.

(4) The provisions concerning the long period of rest as referred to under point d of subsection (2) only apply to workers/ labourers who work in certain enterprises.

(5) The certain enterprises as referred to under subsection (4) shall be determined and specified with a Ministerial Decision.

### **Article 80**

Entrepreneurs are under an obligation to provide workers with adequate opportunity to pray to and or worship God as obliged by their religions.

### **Article 81**

(1) Female workers/ labourers who feel pain during their menstrual period and tell the entrepreneur about this are not obliged to come to work on the first and second day of menstruation.

(2) The implementation of what is stipulated under subsection (1) shall be regulated in work/ employment agreements, enterprise rules and regulations or collective work agreements.

### **Article 82**

(1) Female workers/ labourers are entitled to a 1.5 (one-and-a-half) month period of rest before the time at which they are estimated by an obstetrician or a midwife to give birth to a baby and another 1.5 (one-and-a-half) month period of rest thereafter.

(2) A female worker/ labourer who has a miscarriage is entitled to a period of rest of 1.5 (one-and-a-half) months or a period of rest as stated in the medical statement issued by the obstetrician or midwife who treats her.

### **Article 83**

Entrepreneurs are under an obligation to provide proper opportunities to female workers/ labourers whose babies still need breastfeeding to breast-feed their babies if that must be performed during working hours.

### **Article 84**

Every worker/ labourer who uses her right to take the period of rest as specified under points b, c and d of subsection (2) of Article 79, Article 80 and Article 82 shall receive her wages in full.

### **Article 85**

(1) Workers/ labourers are not obliged to work on formal public holidays.

(2) Entrepreneurs may require their workers/ labourers to keep on working during formal public holidays if the types and nature of their jobs call for continuous, uninterrupted operation or under other circumstances based on the agreement between the worker/ labourer and the entrepreneur.

(3) Entrepreneurs who require their workers/ labourers to keep on working on formal public holidays as referred to under subsection (2) are under an obligation to pay overtime pay.

(4) Rulings concerning the types and nature of the jobs referred to under subsection (2) shall be determined and specified with a Ministerial Decision.

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### ***Fifth Paragraph Occupational Safety and Health***

#### **Article 86**

(1) Every worker/ labourer has the right to receive:

- a. Occupational safety and health protection;
- b. Protection against immorality and indecency;
- c. Treatment that shows respect to human dignity and religious values.

(2) In order to protect the safety of workers/ labourers and to realize optimal productivity, an occupational health and safety scheme shall be administered.

(3) The protection as referred to under subsection (1) and subsection (2) shall be given in accordance with valid statutory legislation.

#### **Article 87**

(1) Every enterprise is under an obligation to apply an occupational safety and health management system that shall be integrated into the enterprise's management system.

(2) Rulings concerning the application of the occupational safety and health management system as referred to under subsection (1) shall be determined and specified with a Government Regulation.

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## **Part Two Wage**

#### **Article 88**

(1) Every worker/ labourer has the right to earn a living that is decent from the viewpoint of humanity [literal: the right to earn an income that meets livelihood that is decent for humans].

(2) In order to enable the worker to earn a living that is decent

from the viewpoint of humanity as referred to under subsection (1), the Government shall establish a wage policy that protects the worker/ labourer.

(3) The wage policy that protects workers/ labourers as referred to under subsection (2) shall include:

- a. Minimum wages;
- b. Overtime pay;
- c. Wages that are payable to the worker during his absence from work due to illness;
- d. Wages that are payable to the worker during his absence from work because of activities outside of his job that he has to carry out;
- e. Wages payable to the worker during his absence from work because he uses his right to take a rest;
- f. The form and method of the payment of wages;
- g. Fines and deductions from wages;
- h. Things that can be calculated with wages;
- i. Proportional wage structure and scale;
- j. Wages for the payment of severance pay; and
- k. Wages for calculating income tax.

(4) The Government shall establish/ set minimum wages as referred to under subsection (3) point (a) based on the need for decent living (*kebutuhan hidup layak*) by taking into account productivity and economic growth.

### **Article 89**

(1) The minimum wages as referred to under point a of subsection (3) of Article 88 may consist of:

- e. Provincial or district/ city-based minimum wages;
- f. Sector-based minimum wages within a given province or district/ city;

(2) The establishment of minimum wages as referred to under subsection (1) shall be directed towards meeting the need for decent living (*kebutuhan hidup layak*).

(3) The minimum wages as referred to under subsection (1) shall be determined/ fixed by Governors after considering recommendations from Provincial Wage Councils and/or District

Heads/ Mayors.

(4) The components of and the implementation of the phases of achieving the needs for decent living as referred to under subsection (2) shall be specified and determined with a Ministerial Decision.

### **Article 90**

(1) Entrepreneurs are prohibited from paying wages lower than the minimum wages as referred to under Article 89.

(2) Entrepreneurs who are unable to pay minimum wages as referred to under Article 89 may be allowed to postpone [paying minimum wages].

(3) Procedures for postponing paying minimum wages as referred to under subsection (2) shall be regulated with a Ministerial Decision.

### **Article 91**

(1) The amount of wage set based on an agreement between the entrepreneur and the worker/ labourer or trade/ labour union must not be lower than the amount of wage set under valid statutory legislation.

(2) In case the agreement as referred to under subsection (1) sets a wage that is lower than the one that has to be set under valid statutory legislation or runs against valid statutory legislation, the agreement shall be declared null and void by law and the entrepreneur shall be obliged to pay the worker/ labourer a wage according to valid statutory legislation.

### **Article 92**

(1) Entrepreneurs shall formulate the structure and scales of wages by taking into account the functional and structural positions and ranks, the occupation, years of work, education and competence of the worker/ labourer.

(2) Entrepreneurs shall review their workers/ labourers' wages periodically by taking into account their enterprise's financial ability and productivity.

(3) Rulings concerning the structure and scales of wages as referred to under subsection (1) shall be determined and specified



with a Ministerial Decision.

### **Article 93**

(1) No wages will be paid if workers/ labourers do not perform work.

(2) However, the ruling as referred to under subsection (1) shall not apply and the entrepreneur shall be obliged to pay the worker/ labourer's wages if the worker/ labourer does not perform work because of the following reasons:

- a. The workers/ labourers are taken ill so that they cannot perform their work;
- b. The female workers/ labourers are ill on the first and second day of their menstrual period so that they cannot perform their work;
- c. The workers/ labourers have to be absent from work because they get married, marry off their children, have their sons circumcised, have their children baptized, or because the worker/ labourer's wife gives birth to a baby, or suffers from a miscarriage, or because the wife or husband or children or children-in-law(s) or parent(s) or parent-in-law(s) of the worker/ labourer or a member of the worker/ labourer's household dies;
- d. The workers/ labourers cannot perform their work because they are carrying out or fulfilling their obligations to the State;
- e. The workers/ labourers cannot perform their work because they are practicing or observing religious obligations ordered/ required by their religion;
- f. The workers/ labourers are willing to do the job that they have been promised to but the entrepreneur does not employ or require them to do the job, because of the entrepreneur's own fault or because of impediments that the entrepreneur should have been able to avoid;
- g. The workers/ labourers are exercising their right to take a rest;
- h. The workers/ labourers are performing their trade union duties with the permission from the entrepreneur; and
- i. The workers/ labourers are undergoing a study or an education program required by their enterprise.

(3) The amount of wages payable to workers who are taken ill as

referred to under point a of subsection (2) shall be determined as follows:

- a. For the first four months, they shall be entitled to receive 100 (one hundred) percent of their wages;
- b. For the second four months, they shall be entitled to receive 75 (seventy-five) percent of their wages;
- c. For the third four months, they shall be entitled to receive 50 (fifty) percent of their wages; and
- d. For subsequent months, they shall be entitled to receive 25 (twenty-five) percent of their wages prior to the termination of employment by the entrepreneur.

(4) The amount of wages payable to workers/ labourers during the period in which they have to be absent from work for reasons specified under point c of subsection (2) shall be determined as follows,

- a. If the workers/ labourers are absent from work because they get married, they shall be entitled to receive a payment for 3 (three) days' work during the absence;
- b. If the workers/ labourers are absent from work because they marry off their son or daughter, they shall be entitled to receive a payment for 2 (two) days' work during the absence;
- c. If the workers/ labourers are absent from work because they have their son circumcised, they shall be entitled to receive a payment for 2 (two) days' work during the absence;
- d. If the workers/ labourers are absent from work because they have their children baptized, they shall be entitled to receive a payment for 2 (two) days' work during the absence;
- e. If a worker/ labourer is absent from work because his wife gives birth to a baby or his wife suffers a miscarriage, he shall be entitled to receive a payment for 2 (two) days' work during the absence;
- f. If the workers/ labourers are absent from work because their spouse, or because either one of their parent or one of their parent-in-law, or because one of their children or children-in-law dies, they shall be entitled to receive a payment for 2 (two) days' work during the absence; and
- g. If a member of the worker/ labourer's household dies,

the worker/ labourer shall be entitled to receive a payment for 1 (one) day's work during the absence.

(5) Arrangements for the implementation of what is stipulated under subsection (2) shall be specified in work agreements, enterprise rules and regulations or collective work agreements.

#### **Article 94**

If a wage is composed of basic wage and fixed allowance, the amount of the basic wage must not be less than 75% (seventy five percent) of the total amount [of the basic wage and fixed allowance.]

#### **Article 95**

(1) Violations by the worker/ labourer, either by design or because of neglect, may result in the imposition of a fine.

(2) Entrepreneurs who pay their workers/ labourers' wages late either by design or because of neglect shall be ordered to pay a fine whose amount shall correspond to a certain percentage from the worker/ labourer's wages.

(3) The government shall determine and specify the imposition of fine on the entrepreneur and or the worker/ labourer in [connection with] the payment of wages.

(4) In case the enterprise is declared bankrupt or liquidated based on valid statutory legislation, the payment of the enterprise's workers/ labourers' wages shall take priority over the payment of other debts.

#### **Article 96**

Any claim/ demand for the payment of the worker/ labourer's wages and all other claims/ demands for payments that arise from an employment relation shall expire after the passage of a period of 2 (two) years since such claims first come into being.

#### **Article 97**

Rulings concerning decent income, wage policy, the need for decent living and workers' wages protection as referred to under Article 88, the setting of minimum wages as referred to under Article 89, and rulings concerning the imposition of a fine as referred to under subsection (1), subsection (2) and subsection (3) of Article 95 shall be determined and specified with a Government Regulation.

### **Article 98**

(1) In order to provide recommendations and considerations for the formulation of wage policies to be established by the Government, and to develop a national wage system, the National Wage Council (*Dewan Pengupahan Nasional*), Provincial Wage Councils, and District/ City Wage Councils shall be established.

(2) The councils as referred to under subsection (1) shall have representatives from the government, entrepreneurs' organizations, trade/ labour unions, universities and experts as their members.

(3) The members of the National-level Wage Council shall be appointed and dismissed by the President while the members of Provincial Wage Councils and District/ City Wage Councils shall be appointed and dismissed by [the] Governors/ District Heads/ Mayors [of the respective provinces, districts and cities].

(4) Rulings concerning the procedures for the formation of, membership composition of, procedures for appointing and dismissing members of and duties and working procedures of wage system councils as referred to under subsection (1) and subsection (2) shall be determined and specified with a Presidential Decision.

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## **Part Three Welfare**

### **Article 99**

(1) Workers/ labourers and their families shall each be entitled to social security for employees (*jaminan sosial tenaga kerja*).

(2) The social security for employees as referred to under subsection (1) shall be administered in accordance with valid statutory legislation.

### **Article 100**

(1) In order to improve the welfare of the workers/ labourers and their families, the entrepreneur shall provide welfare facilities.

(2) The provision of welfare facilities as referred to under subsection (1) shall be administered by weighing the need of the worker/ labourer for welfare facilities against the enterprise's [financial] ability to provide such facilities.

(3) Rulings concerning the kind and criteria of welfare facilities [that is to be provided] according to the need of the worker/ labourer and the measurement of the enterprise's [financial] ability to provide them as referred to under subsection (1) and subsection (2) shall be determined and specified with a Government Regulation.

### **Article 101**

(1) To improve workers/ labourers' welfare, workers/ labourers' cooperatives and productive [income-generating] business undertakings at the enterprise shall be established.

(2) The government, the entrepreneur and the worker/ labourer or the trade/ labour union shall make efforts to develop workers/ labourers' cooperatives and make them grow and multiply; they shall also make efforts to develop productive business undertakings as referred to under subsection (1).

(3) Efforts to establish workers/ labourers' cooperatives as referred to under subsection (1) shall be made in accordance with relevant and valid statutory legislation.

(4) Efforts to develop workers/ labourers' cooperatives and make them grow and multiply as referred to under subsection (2) shall be determined and specified with a Government Regulation.

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## **CHAPTER XI INDUSTRIAL RELATION**

### **Part One General**

### **Article 102**

(1) In conducting industrial relations, the government shall perform the function of establishing policies, providing services, taking control and taking actions against any violations of statutory manpower rules and regulations.

(2) In conducting industrial relations, workers/ labourers and their organizations [unions] shall perform the function of performing their jobs/ work as obliged, keeping things in order in order to ensure continued, uninterrupted production, channeling their

aspirations democratically, enhancing their skills and expertise and helping promote the business of the enterprise for which they work and fight for the welfare of their members and families.

(3) In conducting industrial relations, entrepreneurs and their associations shall perform the function of creating partnership, developing business, diversifying employment and providing welfare to workers/ labourers in a transparent and democratic way and in a way that upholds justice.

### **Article 103**

Industrial Relation shall be applied through:

- a. Trade/ labour unions;
- b. Entrepreneurs' organizations;
- c. Bipartite cooperation institutions;
- d. Tripartite cooperation institutions;
- e. Enterprise rules and regulations;
- f. Collective work agreements;
- g. Statutory manpower rules and regulations; and
- h. Industrial relation dispute settlement institutes/ agencies.

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## **Part Two Trade/ Labour Union**

### **Article 104**

(1) Every worker/ labourer has the right to form and become member of a trade/ labour union.

(2) In performing functions as referred to under Article 102, a trade/ labour union shall have the right to collect and manage fund and be accountable for the union's finances, including for the provision of a strike fund.

(3) The amount of the strike fund and procedures for collecting it as referred to under subsection (2) shall be regulated under the union's constitution and/or the union's bylaws.

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## **Part Three**

## **Entrepreneurs' Organization**

### **Article 105**

- (1) Every entrepreneur has the right to form and become a member of entrepreneurs' organization.
- (2) Rulings concerning entrepreneurs' organizations shall be determined and specified in accordance with valid statutory legislation.

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## **Part Four Bipartite Cooperation Institutes**

### **Article 106**

- (1) Every enterprise employing 50 (fifty) workers/ labourers or more is under an obligation to establish a bipartite cooperation institute.
- (2) The bipartite cooperation institute as referred to under subsection (1) shall function as a forum for communication, consultation and deliberation on labour issues at an enterprise.
- (3) The membership lineup of the bipartite cooperation institute as referred to under subsection (2) shall include the entrepreneur's representatives and the worker/ labourer's representatives who are democratically appointed by workers/ labourers to represent the interests of the worker/ labourer in the enterprise in question.
- (4) Rulings concerning the procedures for establishing the membership lineup of the bipartite cooperation forum as referred to under subsection (1) and subsection (3) shall be determined and specified with a Ministerial Decision.

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## **Part Five Tripartite Cooperation Institutes**

### **Article 107**

- (1) Tripartite cooperation institute shall provide considerations, recommendations and opinions to the government and other parties involved in policy making and problem solving concerning labour issues/ problems.

(2) The tripartite cooperation institute as referred to under subsection (1) shall consist of:

- a. The National Tripartite Cooperation Institute and the Provincial, District/City Tripartite Cooperation Institutes; and
- b. Sector-based National Tripartite Cooperation Institute and sector-based Provincial, District/ City Tripartite Cooperation Institutes.

(3) The membership of tripartite cooperation institutes shall consist of representatives from the government, entrepreneurs' organizations and trade/ labour unions.

(4) Procedures and organizational structures of tripartite cooperation institutes as referred to under subsection (1) shall be determined and specified with a Government Regulation.

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## **Part Six Enterprise Regulations**

### **Article 108**

(1) Every enterprise which employs no less than 10 (ten) workers/ labourers is under an obligation to create a set of enterprise rules and regulations that shall come into force after being made legal by Minister or another government official appointed to act on behalf of the Minister.

(2) The obligation to have a set of legalized enterprise rules and regulations as referred to under subsection (1), however, does not apply to enterprises already having collective work agreements.

### **Article 109**

Entrepreneurs shall formulate the rules and regulations of their enterprise and shall be responsible for them.

### **Article 110**

(1) Enterprise rules and regulations shall be formulated by taking into account the recommendations and considerations from the worker/ labourer's representatives of the enterprise.

(2) If a trade/ labour union has already been established in the



enterprise, the worker/ labourer's representatives as referred to under subsection (1) shall be the trade/ labour union's officials.

(3) If there is no trade/ labour union in the enterprise, the worker/ labourer's representatives referred to under subsection (1) shall be the workers/ labourers who hold a position in, or are members of, the bipartite cooperation institutes and or has been democratically elected by the workers/ labourers in the enterprise to represent them and act on behalf of their interests.

### **Article 111**

(1) Enterprise rules and regulations shall at least contain [incorporate] stipulations concerning:

- a. The rights and obligations of the entrepreneur;
- b. The rights and obligations of the worker/ labourer;
- c. Working conditions/ requirements;
- d. Enterprise discipline and rule of conduct;
- e. The period of their validity [during which the enterprise rules and regulations in question shall be valid];

(2) Enterprise rules and regulations shall by no means run against any valid statutory legislation.

(3) The validity of enterprise rules and regulations shall last for no longer than 2 (two) years and shall be subjected to revision upon their expiration.

(4) As long as enterprise rules and regulations remain valid and effective, the entrepreneur is under an obligation to take up on [to entertain] the request of the enterprise's trade/ labour union(s) to negotiate a collective work agreement if the trade union(s) should ask the entrepreneur to do so.

(5) If the negotiation as referred to under subsection (4) fails to reach an agreement, however, the ongoing enterprise rules and regulations shall remain valid and effective until [the date of] their expiration.

### **Article 112**

(1) Legalization of enterprise rules and regulations by the Minister or another government official as referred to under subsection (1) of Article 108 must have already been performed within a period of no later than 30 (thirty) workdays after the draft of the rules and

regulations in question is received [by the Minister].

(2) If the enterprise rules and regulations have met what is required under subsection (1) and subsection (2) of Article 111 and the period of 30 (thirty) workdays for legalizing them as referred to under subsection (1) has elapsed but the Minister or the appointed government official to act on behalf of the Minister has not legalized them yet, then the enterprise rules and regulations in question shall be assumed to have been legalized.

(3) If the enterprise rules and regulations have not met what is required under subsection (1) and subsection (2) of Article 111 yet, the Minister or the government official appointed to act on the Minister's behalf must give a written notification to the entrepreneur so that correction can be made to the enterprise rules and regulations in question.

(4) Within a period of no later than 14 (fourteen) workdays after the date on which the written notification is received by the entrepreneur as referred to under subsection (3), the entrepreneur is under an obligation to resubmit the corrected version of the enterprise rules and regulations to the Minister or government official appointed to act on the Minister's behalf.

### **Article 113**

(1) Any changes to enterprise rules and regulations prior to their expiration can only be made on the basis of an agreement between the entrepreneur and the worker/ labourer's representatives.

(2) [Should such changes be made,] the [new] enterprise rules and regulations resulting from the agreement as referred to under subsection (1) shall then be made legal by Minister or another government official appointed to act on behalf of the Minister.

### **Article 114**

The entrepreneur is under an obligation to tell and explain to the worker/ labourer [all] the enterprise rules and regulations and [all] changes made to them [if any].

### **Article 115**

Rulings concerning procedures for making and legalizing enterprise rules and regulations shall be determined and specified by means of a Ministerial Decision.

## **Part Seven**

### **Collective Work Agreement**

#### **Article 116**

(1) A collective work agreement shall be made between a trade/ labour union or several trade unions already recorded at a government agency responsible for labour/ manpower affairs and an entrepreneur or several entrepreneurs respectively.

(2) The collective work agreement as referred to under subsection (1) shall be formulated by means of deliberations in order to reach a consensus.

(3) The collective work agreement as referred to under subsection (1) shall be made in writing using Latin alphabets and in the Indonesian language.

(4) In case the collective work agreement is not written in the Indonesian language, the collective work agreement in question must be translated into Indonesian by a sworn translator and the translation shall be considered to have fulfilled what is stipulated under subsection (3).

#### **Article 117**

In case the deliberations as referred to under subsection (2) of Article 116 fail to reach any consensus, then the procedures for the settlement of industrial relation disputes shall be applied to settle the case.

#### **Article 118**

In 1 (one) enterprise only 1 (one) collective work agreement can be made that shall apply to all workers/ labourers working in the enterprise in question.

#### **Article 119**

(1) If there is only one trade/ labour union in an enterprise, the only trade/ labour union in the enterprise shall have the right to represent workers/ labourers in negotiating a collective work agreement with the entrepreneur of the enterprise provided that more than 50% (fifty hundredth) of the total number of workers/ labourers who work in the enterprise are members of the trade/ labour union in question.

(2) In case there is only one trade/ labour union in an enterprise as referred to under subsection (1) above but the number of its members does not exceed 50% (fifty hundredth) of the total workforce in the enterprise, the trade/ labour union in question may represent workers/ labourers in negotiating a collective work agreement with the entrepreneur provided that a vote that is held on this issue confirms that the trade/ labour union wins the support of more than 50% (fifty hundredth) of the total number of workers in the enterprise.

(3) If the support of more than 50% of the enterprise's total workforce as referred to under subsection (2) is not obtained, however, the trade/ labour union concerned may once again put forward its request to negotiate a collective work agreement with the entrepreneur after a period of 6 (six) months is passed since the vote is held in accordance with the procedures as referred to under subsection (2).

### **Article 120**

(1) If there are more than 1 (one) trade/ labour union in an enterprise, the trade/ labour union that has the right to represent workers/ labourers in negotiating a collective work agreement with the entrepreneur shall be the one whose members are more than 50% (fifty hundredth) of the total number of all the workers/ labourers who work in the enterprise.

(2) If the requirement as referred to under subsection (1) is not fulfilled, however, the trade/ labour unions in the enterprise may form a coalition until the coalition gets the support of workers numbering more than 50% (fifty hundredth) of the total number of workers/ labourers in the enterprise so that it is qualified to represent workers/ labourers in negotiating a collective work agreement with the entrepreneur.

(3) In case what is stipulated under subsection (1) or subsection (2) is not fulfilled, however, the trade/ labour unions shall establish a negotiating team whose members shall be determined in proportion to the number of members that each trade/ labour union has.

### **Article 121**

Membership in a trade/ labour union as referred to under subsection 119 and subsection 120 shall be proved with a

membership card.

### **Article 122**

[The meeting called to take a] vote as referred to under subsection (2) of Article 119 shall be administered by a committee that is composed of workers/ labourers' representatives and trade/ labour union officials witnessed by the government official responsible for labour/ manpower affairs and by the entrepreneur.

### **Article 123**

(1) A collective work agreement shall come into force for no longer than 2 (two) years [since it was made].

(2) The effectiveness of the collective work agreement as referred to under subsection (1) may be extended for no longer than 1 (one) year based on a written agreement between the entrepreneur and the trade/ labour union(s).

(3) Negotiations for the next collective work agreement may be started as early as 3 (three) months prior to the expiration of the existing collective work agreement.

(4) In case the negotiations as referred to under subsection (3) fail to result in any agreement, the ongoing collective work agreement shall remain effective for a period of 1 (one) year at the longest.

### **Article 124**

(1) A collective work agreement shall at least contain:

- a. The rights and obligations of the employer;
- b. The rights and obligations of the trade/ labour union and the worker/ labourer;
- c. The period during which and the date starting from which the collective work agreement takes effect; and
- d. The signatures of those involved in making the collective work agreement.

(2) Stipulations of a collective work agreement must not run against what is stipulated in valid statutory legislation.

(3) Should the contents of a collective work agreement run against what is stipulated in valid statutory legislation as referred to under subsection (2), then the contradictory stipulations shall be declared null and void by law. What shall then apply is what is stipulated

under valid statutory legislation.

### **Article 125**

If both sides [the worker and the entrepreneur] agree to make collective work agreement changes, then the changes shall form an inseparable part of the ongoing, effective and valid collective work agreement.

### **Article 126**

(1) The entrepreneur, the trade/ labour union and or the worker/ labourer is under an obligation to implement [follow] what is stipulated in the collective work agreement.

(2) The entrepreneur and the trade/ labour union are under an obligation to inform the contents of the collective work agreement [that they have made and signed] or any changes made to it to all the enterprise's workers/ labourers.

(3) The entrepreneur must print and distribute the text of collective work agreement to each worker/ labourer on the enterprise's expense account.

### **Article 127**

(1) Any [individual] work agreement [or a contract of employment] made by the entrepreneur and the worker/ labourer shall not run against [what is stipulated in] the collective work agreement.

(2) Should there be any stipulations [provisions] under the work agreement referred to under subsection (1) that run against the collective work agreement, then those particular provisions in the work agreement shall be declared null and void by law. What shall then apply is what is stipulated in the collective work agreement.

### **Article 128**

If an employment/ work agreement does not contain [or is silent about] the rules and regulations that are stipulated in the collective work agreement, then the stipulations specified in the collective work agreement shall apply.

### **Article 129**

(1) The entrepreneur is prohibited from replacing the collective work agreement with the enterprise's rules and regulations as long as there is a trade/ labour union in the enterprise.

(2) If there is no more trade/ labour union in the enterprise, however, and the collective work agreement is replaced by the enterprise's rules and regulations, then what is stipulated in the enterprise's rules and regulations shall by no means be inferior to what is stipulated in the collective work agreement.

### **Article 130**

(1) If a collective work agreement that has expired will be extended or renewed and there is only 1 (one) trade/ labour union in the enterprise, then the extension or renewal of the collective work agreement shall not require what is stipulated under Article 119.

(2) If a collective work agreement that has expired will be extended or renewed and there are more than 1 (one) trade/ labour union in the enterprise and the trade/ labour union that negotiated in the last agreement no longer meet what is required under subsection (1) of Article 120, the extension or renewal of the collective work agreement shall be made by the trade/ labour union whose members are more than 50% (fifty hundredth) of the total number of workers/ labourers in the enterprise together with the trade/ labour union that negotiated in the last agreement by establishing a negotiating team whose members are proportional to the members of the trade/ labour unions represented in the team.

(3) If an expired collective work agreement will be extended or renewed and there are more than 1 (one) trade/ labour unions in the enterprise and none of them meet what is required under subsection (1) of Article 120, then the extension or renewal of the collective work agreement shall be made in accordance with what is stipulated under subsection (2) and subsection (3) of Article 120.

### **Article 131**

(1) Upon the dissolution of a trade/ labour union or the transfer of the enterprise's ownership [to another enterprise], the ongoing collective work agreement shall remain valid and effective until it expires.

(2) If an enterprise with a collective work agreement merges with another enterprise with another collective work agreement, then the collective work agreement that gives the worker/ labourer more advantages shall apply to the new enterprise that is created from the merger.

(3) If an enterprise that has a collective work agreement merges with another enterprise that has no collective work agreement, then the collective work agreement of the enterprise that has it shall apply to the enterprise resulted from the merger until the collective work agreement expires.

### **Article 132**

(1) A collective work agreement shall start to take effect on the day it is signed unless otherwise stated in the collective work agreement in question.

(2) A collective work agreement that has been signed by those making the agreement must be registered at a government agency responsible for labour/ manpower affairs.

### **Article 133**

Provisions concerning the requirements and procedures for making, extending, changing and registering a collective work agreement shall be determined and specified by means of a Ministerial Decision.

### **Article 134**

In order to realize the rights and obligations of both the worker and the entrepreneur, the Government is under an obligation to control the implementation of manpower laws and regulations and ensure their observance and enforcement.

### **Article 135**

The implementation of manpower laws and regulations in order to realize industrial relations is the responsibility of the worker/ labourer, the entrepreneur and the government.

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## **Part Eight Institutes/ Agencies for the Settlement of Industrial Relations Disputes**

### ***First Paragraph Industrial Relations Dispute***

### **Article 136**

(1) The entrepreneur and the worker/ labourer or the trade/ labour union are under an obligation to make efforts to settle any



industrial relations dispute they have through deliberations aimed at reaching a consensus [a win-win solution].

(2) If the deliberations as referred to under subsection (1) fail to reach a consensus, then the entrepreneur and the worker/ labourer or the trade/ labour union shall have the industrial relations dispute settled through procedures for the settlement of industrial relations disputes that are determined and specified by legislation.

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## ***Second Paragraph Strike***

### **Article 137**

Strike, which results from failed negotiation, is a fundamental right of workers/ labourers and trade/ labour unions that shall be staged legally, orderly and peacefully. [Literal translation: Strike as a fundamental right of the worker/ labourer and the trade/ labour union shall be carried out legally, orderly and peacefully as a result of failed negotiation.]

### **Article 138**

(1) Striking workers/ labourers and/or trade/ labour unions may invite other workers/ labourers to join a strike they are staging provided that they do this without committing legal violation. [Literal translation: workers/ labourers and/or trade/ labour unions intending to invite other workers/ labourers to strike whilst the strike is going on shall be performed without violating laws.]

(2) The workers/ labourers who are invited to join an ongoing strike as referred to under subsection (1) may accept or decline the invitation.

### **Article 139**

The implementation of strike staged by the workers/ labourers of enterprises that serve the public interest and/or enterprises whose types of activities, when interrupted by a strike, will lead to the endangerment of human lives, shall be arranged in such a way so as not to disrupt public interests and/or endanger the safety of other people.

### **Article 140**

(1) Within a period of no less than 7 (seven) days prior to the

actual realization of a strike, workers/ labourers and trade/ labour unions intending to stage a strike are under an obligation to give a written notification of the intention to the entrepreneur and the local government agency responsible for labour/ manpower affairs.

(2) The notification as referred to under subsection (1) shall at least contain:

- a. The day and the date on which, and the hour at which they will start the strike;
- b. The venue of the strike;
- c. Their reason for the strike and or their demand;
- d. The signatures of the chairperson and secretary of the striking union and/or the signature of each of the chairpersons and secretaries of the unions participating in the strike, who shall be held responsible for the strike.

(3) If the strike is staged by workers/ labourers who are not members of any trade/ labour union, the notification as referred to under subsection (2) shall be signed by workers/ labourers' representatives who have been appointed to coordinate and/or be held accountable for the strike.

(4) If a strike is performed not as referred to under subsection (1), then, in order to save production equipment and enterprise assets, the entrepreneur may take temporary action by:

- a. Prohibiting striking workers/ labourers from being present at locations where production processes normally take place; or
- b. Prohibiting striking workers/ labourers from being present at the enterprise's premise if necessary.

### **Article 141**

(1) A representative of the government agency and the management who receives the letter notifying the intention to strike as referred to under Article 140 is under an obligation to issue a receipt acknowledging the receiving of the written notification.

(2) Prior to and during the strike, the government agency responsible for labour/ manpower affairs is under an obligation to solve problem(s) that lead(s) to the emergence of strike by

arranging a meeting of disputing parties in order to discuss (negotiate) the problem(s) with them.

(3) If the discussion as referred to under subsection (2) results in both sides in the dispute reaching an agreement for settling the dispute, a mutual agreement to this end shall be made and signed by the parties in the dispute and also by a government employee from the government agency responsible for labour/ manpower affairs who shall serve as witness.

(4) In case the discussion as referred to under subsection (2) results in no agreement to settle the dispute, the employee from the government agency responsible for labour/ manpower affairs shall immediately refer the problem(s) that cause(s) the strike to the authorized institute for the settlement of industrial relation disputes.

(5) In case the discussion results in no agreement as referred to under subsection (4), then, on the basis of negotiation between the entrepreneur and the trade/ labour union(s) responsible for the strike or the bearer(s) of responsibility for the strike, the strike may be continued or terminated temporarily or terminated at all.

### **Article 142**

(1) Any strike that is staged without fulfilling what is stipulated under Article 139 and Article 140 is illegal.

(2) The legal consequences of staging an illegal strike as referred to under subsection (1) shall be regulated with a Ministerial Decision.

### **Article 143**

(1) Nobody is allowed to prevent workers/ labourers and trade/ labour unions from using their right to strike legally, orderly and peacefully.

(2) It is prohibited to arrest and/or detain workers/ labourers and union officials who are striking legally, orderly and peacefully in observance of valid legislation.

### **Article 144**

In the event of a strike performed in observance of what is stipulated under Article 140, the entrepreneur is prohibited from:

- a. Replacing striking workers/ labourers with other

workers/ labourers from outside of the enterprise; or  
b. Imposing sanctions on or taking retaliatory actions in whatever form against striking workers/ labourers and union officials during and after the strike is performed.

### **Article 145**

Workers/ labourers who stage a strike legally in order to demand the fulfillment of their normative rights, which the entrepreneur has indeed violated, shall have their wages fully paid despite the period of time not worked because of the strike.

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## ***The Third Paragraph Lockout***

### **Article 146**

(1) Lockout, which results from failed negotiation, is a fundamental right of entrepreneurs to prevent their workforce either in part or in whole from performing work.

(2) Entrepreneurs are not justified to lock out their workforce as retaliation for normative demands raised by workers/ labourers and/or trade/ labour unions.

(3) Lockouts must be performed in observance of valid legislation.

### **Article 147**

Lockouts shall be prohibited from taking place at enterprises that serve the public interest and or enterprises whose types of activities, when interrupted by lockouts, will endanger human lives, including hospitals, enterprises that provide networks of clean water supply to the public, centers of telecommunications control, centers that supply electricity, oil-and-gas processing industries, and trains.

### **Article 148**

(1) An entrepreneur who intends to perform a lockout is under an obligation to give a written notification of the lockout to workers/ labourers and/or trade/ labour union(s) and the local government agency responsible for dealing with labour/ manpower affairs within a period of no less than 7 (seven) workdays before the lockout takes place.

(2) The lockout notification as referred to under subsection (1) shall at least contain:

- a. The day and the date on which, and the hour at which, the entrepreneur will start and end the lockout; and
- b. The reason(s) and cause(s) for the lockout.

(3) The notification as referred to under subsection (1) shall be signed by the entrepreneur and/or the management of the enterprise intending to lock out the workforce.

### **Article 149**

(1) Workers/ labourers or trade/ labour unions and government agencies responsible for labour/ manpower affairs that directly receive a written notification of the lockout as referred to under Article 148 must issue receipts acknowledging that they have received the written notification. The receipt shall state the day and the date on which, and the hour at which, the notification is received.

(2) Before and during the lockout, the government agency responsible for labour/ manpower affairs shall immediately try to solve the problem(s) that cause(s) the lockout to take place by arranging a meeting between the disputing parties and discussing the problem(s) with them.

(3) If the discussion as referred to under subsection (2) results in both sides in the dispute reaching an agreement for settling the dispute, a mutual agreement to this end shall be made and signed by the parties in the dispute and also by a government employee from the government agency responsible for labour/ manpower affairs who shall serve as witness.

(4) In case the discussion as referred to under subsection (2) results in no agreement to settle the dispute, the employee from the government agency responsible for labour/ manpower affairs shall immediately refer the problem(s) that cause(s) the strike to the authorized institute for the settlement of industrial relation disputes.

(5) In case the discussion results in no agreement as referred to under subsection (4), then, on the basis of negotiation between the entrepreneur and the trade/ labour union(s), the lockout may be

continued or terminated temporarily or terminated at all.

(6) Notification as referred to under subsection (1) and subsection (2) of Article 148 is not needed if:

- a. The workers/ labourers or trade/ labour unions violate the strike procedures as referred to under Article 140;
- b. The workers/ labourers or trade/ labour unions violate the normative provisions stipulated under work agreements, enterprise rules and regulations, collective work agreements or valid laws and regulations.

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## **CHAPTER XII TERMINATION OF EMPLOYMENT**

### **Article 150**

The provisions concerning termination of employment under this act shall cover termination of employment that happens in a business undertaking which is a legal entity or not, a business undertaking owned by an individual [sole proprietorship], by a partnership or by a legal entity, either owned by the private sector or by the State, as well as social undertakings and other undertakings which have administrators/ officials and employ people by paying them wages or other forms of remuneration.

### **Article 151**

(1) The entrepreneur, the worker/ labourer and or the trade/ labour union, and the government must make all efforts to prevent termination of employment from taking place.

(2) If despite all efforts made termination of employment remains inevitable, then, the intention to carry out the termination of employment must be negotiated between the entrepreneur and the trade/ labour union to which the affected worker/ labourer belongs as member, or between the entrepreneur and the worker/ labourer to be dismissed if the worker/ labourer in question is not a union member.

(3) If the negotiation as referred to under subsection (2) fails to result in any agreement, the entrepreneur may only terminate the employment of the worker/ labourer after receiving a decision [a permission to do so] from the institute for the settlement of

industrial relation disputes.

### **Article 152**

(1) A request for a decision of the institute for the settlement of industrial relation disputes to allow termination of employment shall be addressed to the institute by stating the underlying reasons for the request.

(2) The request for such a decision as referred to under subsection (1) may be accepted by the institute for settlement of industrial relation disputes if it has been negotiated as referred to under subsection (2) of Article 151.

(3) The decision on the request for termination of employment can only be made by the institute for the settlement of industrial relation disputes if it turns out that the intention to carry out the termination of employment has been negotiated but that the negotiation results in no agreement.

### **Article 153**

(1) The entrepreneur is prohibited from terminating the employment of a worker/ labourer because of the following reasons:

- a. The worker/ labourer is absent from work because he or she is taken ill as attested by a written statement from the physician who treats him or her provided that he or she is not absent from work for a period of longer than 12 (twelve) months consecutively;
- b. The worker/ labourer is absent from work because he or she is fulfilling his or her obligations to the State in accordance with what is prescribed in the valid statutory legislation [concerning this];
- c. The worker/ labourer is absent from work because he or she is practicing what is required by his or her religion;
- d. The worker/ labourer is absent from work because he or she is getting married;
- e. The worker/ labourer is absent from work because she is pregnant, giving birth to a baby, having a miscarriage, or breast-feeding her baby;
- f. The worker/ labourer is related by blood [birth] and or through marriage to another worker in the enterprise unless so required in the collective work agreement or the

- enterprise's rules and regulations;
- g. The worker/ labourer establishes, becomes a member of and or an administrator/ official of a trade/ labour union; the worker/ labourer carries out trade/ labour union activities outside working hours, or during working hours with permission by the entrepreneur, or according to that which has been stipulated in the individual work agreement, or the enterprise's rules and regulations, or the collective work agreement;
- h. The worker/ labourer reports to the authorities the crime committed by the entrepreneur;
- i. Because the worker/ labourer is of different understanding/ belief, religion, political orientation, ethnicity, color, race, sex, physical condition or marital status;
- j. Because the worker/ labourer is permanently disabled, ill as a result of a work accident, or ill because of an occupational disease [literal translation: employment relationship] whose period of recovery cannot be ascertained as attested by the written statement made by the physician who treats him or her.

(2) Any termination of employment that takes place for reasons referred to under subsection (1) shall be declared null and void by law. The entrepreneur shall then be obliged to reemploy the affected worker/ labourer.

#### **Article 154**

The decision of the institute for the settlement of industrial relation disputes as referred to under subsection (3) of Article 151 is not needed if:

- a. The affected worker/ labourer is still on probation provided that such has been stipulated in writing beforehand;
- b. The affected worker/ labourer makes a written request for resignation at his/her own will with no indication of being pressurized or intimidated by the entrepreneur to do so; or the employment relationship comes to an end according to the work agreement for a specified period of time for the first time;
- c. The affected worker/ labourer has reached a retirement age as stipulated under work agreements, enterprise rules



and regulations, collective work agreements, or laws and regulations; or  
d. The affected worker/ labourer dies.

### **Article 155**

(1) Any termination of employment without the decision of the institute for the settlement of industrial relation disputes as referred to under subsection (3) of Article 151 shall be declared null and void by law.

(2) As long as there is no decision from the institute for the settlement of industrial relation disputes, both the entrepreneur and the worker/ labourer must keep on performing their obligations.

(3) The entrepreneur may violate what is stipulated under subsection (2) above by suspending the worker/ labourer who is still in the process of having his/her employment terminated provided that the entrepreneur continues to pay the worker/ labourer's wages and other entitlements that he/she normally receives.

### **Article 156**

(1) Should termination of employment take place, the entrepreneur is obliged to pay the dismissed worker severance pay and or a sum of money as a reward for service rendered during his or her term of employment [reward-for-years-of-service pay] and compensation pay for rights or entitlements that the dismissed worker/ labourer has not utilized.

(2) The calculation of severance pay as referred to under subsection (1) shall at least be as follows:

- a. 1 (one)-month wages for years of employment less than 1 (one) year;
- b. 2 (two)-month wages for years of employment up to 1 (one) year or more but less than 2 (two) years;
- c. 3 (three)-month wages for years of employment up to 2 (two) years or more but less than 3 (three) years;
- d. 4 (four)-month wages for years of employment up to 3 (three) years or more but less than 4 (four) years;
- e. 5 (five)-month wages for years of employment up to 4 (four) years or more but less than 5 (five) years;

- f. 6 (six)-month wages for years of employment up to 5 (five) years or more but less than 6 (six) years;
- g. 7 (seven)-month wages for years of employment up to 6 (six) years or more but less than 7 (seven) years;
- h. 8 (eight)-month wages for years of employment up to 7 (seven) years or more but less than 8 (eight) years;
- i. 9 (nine)-month wages for years of employment up to 8 (eight) years or more.

(3) The calculation of the sum of money paid as reward for service rendered during the worker/ labourer's term of employment shall be determined as follows:

- a. 2 (two)-month wages for years of employment up to 3 (three) years or more but less than 6 (six) years;
- b. 3 (three)-month wages for years of employment up to 6 (six) years or more but less than 9 (nine) years;
- c. 4 (four)-month wages for years of employment up to 9 (nine) years or more but less than 12 (twelve) years;
- d. 5 (five)-month wages for years of employment up to 12 (twelve) years or more but less than 15 (fifteen) years;
- e. 6 (six)-month wages for years of employment up to 15 (fifteen) years or more but less than 18 (eighteen) years;
- f. 7 (seven)-month wages for years of employment up to 18 (eighteen) years but less than 21 (twenty one) years;
- g. 8 (eight)-month wages for years of employment up to 21 (twenty one) years but less than 24 (twenty four) years;
- h. 10 (ten)-month wages for years of employment up to 24 (twenty four) years or more.

(4) The compensation pay that the dismissed worker/ labourer ought to have as referred to under subsection (1) shall include:

- a. Entitlements to paid annual leaves that have not expired and the worker/ labourer have not taken (used);
- b. Costs or expenses for transporting the worker/ labourer and his or her family back to the point of hire where he or she was recruited and accepted to work for the enterprise [which have not been reimbursed];
- c. Compensation for housing allowance, medical and health care allowance is determined at 15% (fifteen hundredth) of the severance pay and or reward for years of service pay

for those who are eligible to receive such compensation;  
d. Other compensations that are stipulated under individual work agreements, enterprise rules and regulations or collective work agreements.

(5) Changes concerning the calculation of the severance pay, the sum of money paid as reward for service during term of employment and the compensation pay that the worker/ labourer ought to have as referred to under subsection (2), subsection (3), and subsection (4) shall be determined and specified with a Government Regulation.

### **Article 157**

(1) Wage components used as the basis for calculating severance pay, money paid as reward for service rendered during the worker/ labourer's period of employment (reward pay), and money paid to compensate for entitlements that should have been received, which are deferred, are composed of:

- a. Basic wage;
- b. All forms of fixed allowances that are provided to workers/ labourers and their families, including the price of buying ration provided to the worker/ labourer free of charge whereby if the ration must be paid by workers/ labourers with [the help of] subsidies, the difference between the buying price of the ration and the price that must be paid by the worker/ labourer shall be considered as wage.

(2) In case the worker/ labourer's wage is paid on the basis of daily calculation, a one-month wage shall be equal to 30 times a one-day wage.

(3) In case the worker/ labourer's wage is paid on a piece-rate or commission basis, a day's wage shall equal the average daily wage for the last 12 (twelve) months on the condition that the wage must not be less than the provisions for the provincial or district/ city minimum wages.

(4) In case the work depends on the weather and the wage is calculated on a piece-rate basis, the amount of one month's wage shall be calculated from the average wage in the last 12 (twelve) months.

## **Article 158**

(1) An entrepreneur may terminate the employment of a worker/ labourer because the worker/ labourer has committed the following grave wrongdoings:

- a. The worker/ labourer has stolen or smuggled goods and/or money that belong to the enterprise or obtained them by means of deceits;
- b. The worker/ labourer has given false or falsified information that causes the enterprise to incur losses;
- c. The worker/ labourer has got drunk, drunken intoxicating alcoholic drinks, consumed and or distributed narcotics, psychotropic substances and other addictive substances in the working environment;
- d. The worker/ labourer has been committed immorality/ indecency or gambled in the working environment;
- e. The worker/ labourer has attacked, battered, threatened, or intimidated his or her co-workers or the entrepreneur in the working environment;
- f. The worker/ labourer has persuaded his or her co-workers or the entrepreneur to do something that runs against laws and regulations;
- g. The worker/ labourer has either carelessly or intentionally destroyed or let the property of the entrepreneur exposed to danger, which caused the enterprise to incur losses;
- h. The worker/ labourer has either intentionally or carelessly let his or her co-workers or the entrepreneur exposed to danger in the workplace;
- i. The worker/ labourer has unveiled or leaked the enterprise's secrets, which he or she is supposed to keep secret unless otherwise required by the State; or
- j. The worker/ labourer has committed other wrongdoings within the working environment, which call for imprisonment for 5 (five) years or more.

(2) [Accusations of committing] the grave wrongdoings as referred to under subsection (1) must be supported with the following evidence:

- a. The worker/ labourer is caught red-handed;
- b. The worker/ labourer admits that he/she has committed a wrongdoing; or

c. Other evidence in the form of reports of events made by the authorities at the enterprises and confirmed by no less than 2 (two) witnesses.

(3) Workers/ labourers whose employment is terminated because of reasons as referred to under subsection (1) may receive compensation pay for entitlements left unused as referred to under subsection (4) of Article 156.

(4) Workers/ labourers as referred to under subsection (1) whose duties and functions do not directly represent the interest of the entrepreneur shall be given detachment money whose amount and the procedures or methods associated with its payment shall be determined and stipulated in work agreements, enterprise rules and regulations, or collective work agreements.

### **Article 159**

(1) If the worker/ labourer is unwilling to accept the termination of his/her employment as referred to under subsection (1) of Article 158, the worker/ labourer in question may file a suit to the institute [agency] for the settlement of industrial relation disputes.

Previously Article 159 reads as follows:

(1) If the worker/ labourer is unwilling to accept the termination of his/her employment as referred to under subsection (1), the worker/ labourer in question may file a suit to the institute for the settlement of industrial relation disputes.

### **Article 160**

(1) In case the worker/ labourer is detained by the authorities because he or she is alleged to have committed a crime and this happens not because of the complaint filed by the entrepreneur, the entrepreneur is not obliged to pay the worker/ labourer's wages but is obliged to provide [financial] assistance to the members of his or her family who are his or her dependents according to the following provisions:

c. If the worker/ labourer has 1 (one) dependent, the entrepreneur is obliged to pay 25% of the worker/ labourer's wages.

d. If the worker/ labourer has 2 (two) dependents, the entrepreneur is obliged to pay 35% of the worker/

labourer's wages.

e. If the worker/ labourer has 3 (three) dependents, the entrepreneur is obliged to pay 45% of the worker/ labourer's wages.

f. If the worker/ labourer has 4 (four) dependents or more, the entrepreneur is obliged to pay 50% of the worker/ labourer's wages.

(2) The assistance as referred to under subsection (1) shall be provided for no longer than 6 (six) months of calendar year starting from the first day the worker/ labourer is detained by the authorities.

(3) The entrepreneur may terminate the employment of the worker/ labourer who after the passing of 6 (six) months are unable to perform his or her work as he or she should because of the legal process associated with the legal proceedings taking against him or her for the crime he or she is alleged to have committed as referred to under subsection (1).

(4) In case the court decides the case prior to the passing of 6 (six) months as referred to under subsection (3) and the worker/ labourer is declared not guilty of the crime, the entrepreneur is obliged to reemploy the worker/ labourer.

(5) In case the court decides the case prior to the passing of 6 (six) months and the worker/ labourer is declared guilty of the crime, the entrepreneur may terminate the employment of the worker/ labourer in question.

(6) The termination of employment as referred to under subsection (3) and subsection (5) is carried out without the decision of the institute for the settlement of industrial relation disputes.

(7) The entrepreneur is obliged to pay to the worker/ labourer whose employment is terminated as referred to under subsection (3) and subsection (5) reward pay for service rendered during his/her period of employment 1 (one) time of what is stipulated under subsection (3) of Article 156 and compensation pay that the worker/ labourer ought to have as referred to under subsection (4) of Article 156.

## **Article 161**

(1) In case the worker/ labourer violates the provisions that are specified under his or her individual work agreement, the enterprise's rules and regulations, or the enterprise's collective work agreement, the entrepreneur may terminate his or her employment after the entrepreneur precedes it with the issuance of the first, second and third warning letters consecutively.

(2) Each warning letter issued as referred to under subsection (1) shall expire after 6 (six) months unless otherwise stated in the individual work agreement or the enterprise's rules and regulations or the collective work agreement.

(3) Workers/ labourers whose employment is terminated for reasons as referred to under subsection (1) shall be entitled to severance pay amounting to 1 (one) time of the amount of severance pay stipulated under subsection (2) of Article 156, reward pay for period of employment amounting to 1 (one) time of the amount stipulated under subsection (3) of Article 156, and compensation pay for entitlements left unused according to what is stipulated under subsection (4) of Article 156.

## **Article 162**

(1) If a worker/ labourer resigns of his or her own will, he or she shall be entitled to compensation pay in accordance with what is stipulated under subsection (4) of Article 156.

(2) Workers/ labourers who resign of their own will, whose duties and functions do not directly represent the interest of the entrepreneur shall, in addition to the compensation pay payable to them according to what is stipulated under subsection (4) of Article 156, be given detachment money whose amount and the procedures/ methods associated with its payment shall be regulated in work agreements, enterprise rules and regulations or collective work agreements.

(3) A worker/ labourer who resigns as referred to under subsection (1) must fulfill the following requirements:

- a. The worker/ labourer must submit a resignation letter [to the management] no later than 30 (thirty) days prior to the date on which he or she will work no longer.
- b. The worker/ labourer is not being bound by a contract to work for/ serve the enterprise for a certain period of time

in return for the training/ education provided to him or her and paid by the enterprise to enable him or her to have the required qualifications to carry out his or her job at the enterprise.

c. The worker/ labourer shall continue to carry out his or her obligations [to the enterprise] until the date of his or her resignation.

(4) Termination of employment for the reason of free will resignation shall be carried out without the decision of the institute for the settlement of industrial relation disputes.

### **Article 163**

(1) The entrepreneur may terminate the employment of his or her workers/ labourers in the event of change in [the] status [of the enterprise], merger, fusion, or change in the ownership of the enterprise and the workers/ labourers are not willing to continue their employment. If this happens, the worker/ labourer shall be entitled to severance pay 1 (one) time the amount of severance pay stipulated under subsection (2) of Article 156, reward pay for period of employment 1 (one) time the amount stipulated under subsection (3) of Article 156, and compensation pay for entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

(2) The entrepreneur may terminate the employment of his or her workers/ labourers in the event of change in [the] status [of the enterprise], merger, fusion, or change in the ownership of the enterprise and the entrepreneur is not willing to accept the workers/ labourers to work in the [new] enterprise [resulting from the change of status, merger, fusion, or ownership change]. If this happens, the worker/ labourer shall be entitled to severance pay twice the amount of severance pay stipulated under subsection (2) of Article 156, reward pay for period of employment 1 (one) time the amount stipulated under subsection (3) of Article 156, and compensation pay for entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

### **Article 164**

(1) The entrepreneur may terminate the employment of his or her workers/ labourers because the enterprise has to be closed down due to continual losses it suffers for two years consecutively or force majeure. If this happens, the workers/ labourers shall be



entitled to severance pay amounting to 1 (one) time the amount of severance pay stipulated under subsection (2) of Article 156, reward pay for period of employment amounting to 1 (one) time the amount stipulated under subsection (3) of Article 156 and compensation pay for entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

(2) The continual losses as referred under subsection (1) must be provable in the enterprise's financial reports over the last 2 (two) years that have been audited by public accountants.

(3) The entrepreneur may terminate the employment of his or her workers/ labourers because the enterprise has to be closed down and the closing down of the enterprise is caused neither by continual losses for 2 (two) years consecutively nor force majeure but because of rationalization [literal: efficiency]. If this happens, the workers/ labourers shall be entitled to severance pay twice the amount of severance pay stipulated under subsection (2) of Article 156, reward for period of employment pay amounting to 1 (one) time the amount stipulated under subsection (3) of Article 156 and compensation pay for entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

### **Article 165**

The entrepreneur may terminate the employment of the enterprise's workers/ labourers because the enterprise goes bankrupt. If this happens, the workers/ labourers shall be entitled to severance pay amounting to 1 (one) time the amount of severance pay stipulated under subsection (2) of Article 156, reward pay for period of employment amounting to 1 (one) time the amount stipulated under subsection (3) of Article 156 and compensation pay for entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

### **Article 166**

If an employment relationship between an entrepreneur and a worker/ labourer comes to an end because the worker/ labourer dies, to the worker's [legal] heirs shall be given a sum of money whose amount shall be the same as twice the amount of severance pay as stipulated under subsection (2) of Article 156, reward pay for period of employment worked by the worker/ labourer amounting to 1 (one) time the amount stipulated under subsection (3) of Article 156 and compensation pay for entitlements that have

not been used according to what is stipulated under subsection (4) of Article 156.

### **Article 167**

(1) An entrepreneur may terminate the employment of his or her workers/ labourers because they enter pensionable age. If the entrepreneur has included the workers/ labourers in a retirement benefit program, the workers/ labourers in question are not entitled to severance pay according to what is stipulated under subsection (2) of Article 156, reward pay for period of employment in accordance with what is stipulated under subsection (3) of Article 156, and compensation pay for entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

(2) If the retirement benefit that they get as a single lump-sum payment at retirement as a result of their participation in a pension program as referred to under subsection (1) turns out to be lower than twice the amount of the severance pay stipulated under subsection (2) of Article 156, reward pay for period of employment in accordance with what is stipulated under subsection (3) of Article 156, and compensation pay for entitlements left unused according to what is stipulated under subsection (4) of Article 156, the entrepreneur shall make up the difference.

(3) If the entrepreneur has included the worker/ labourer in a pension program whose contributions/ premiums are paid by the entrepreneur and the worker/ labourer, then that which is calculated with the severance pay shall be the pension whose contributions/ premiums have been paid by the entrepreneur.

(4) Arrangements other than what is stipulated under subsection (1), subsection (2) and subsection (3) may be made in individual work agreements or enterprise rules and regulations or collective work agreements.

(5) If the entrepreneur does not include workers/ labourers whose employment is terminated because they enter pensionable age in a pension program, the entrepreneur is obliged to pay them severance pay twice the amount of severance pay as stipulated under subsection (2) of Article 156, reward pay for period of employment amounting to 1 (one) time the amount stipulated under subsection (3) of Article 156 and compensation pay for

entitlements that have not been used according to what is stipulated under subsection (4) of Article 156.

(6) The worker/ labourer's entitlement to retirement benefit as referred to under subsection (1), subsection (2) and subsection (3) shall not eliminate their entitlement to the old age benefit that is compulsory according to valid laws and regulations.

### **Article 168**

(1) An entrepreneur may terminate the employment of a worker/ labourer if the worker/ labourer has been absent from work for no less than 5 (five) workdays consecutively without submitting to the entrepreneur a written account [explaining why he/ she is absent from work] supplemented with valid evidence [to support the truth of the explanation] and the entrepreneur has properly summoned him or her twice in writing because such absenteeism may disqualify the worker/ labourer in question from continuing their employment.

(2) The written explanation supplemented with valid evidence as referred to under subsection (1) must be submitted [to the management] at the latest on the first day on which the worker/ labourer in question comes back to the workplace to resume work.

(3) In the event of the termination of employment as referred to under subsection (1), the affected worker/ labourer shall be entitled to compensation pay for her/ his entitlements that he/ she has not used according to what is stipulated under subsection (4) of Article 156 and they shall be given detachment money whose amount and the procedures and methods associated with its payment shall be regulated in work agreements, enterprise rules and regulations, or collective work agreements.

### **Article 169**

(1) A worker/ labourer may make an official request to the institute for the settlement of industrial relation disputes to terminate his/her employment relationship with his/ her entrepreneur if:

- a. The entrepreneur has battered, rudely humiliated or intimidated the worker/ labourer;
- b. The entrepreneur has persuaded and/or ordered the worker/ labourer to commit acts that run against statutory laws and regulations; or

- c. The entrepreneur has not paid wages at a prescribed time for three months consecutively or more;
- d. The entrepreneur has not performed obligations promised to workers/ labourers;
- e. The entrepreneur orders the worker/ labourer to perform work outside of that which has been agreed upon by the worker/ labourer to undertake;
- f. The entrepreneur has ordered the worker/ labourer to carry out work that puts the worker/ labourer's life, safety, health and or morality in jeopardy, of which the worker/ labourer is not made aware or informed at the time the worker/ labourer's employment agreement was made.

(2) In the event of termination of employment because of reasons as referred to under subsection (1), the affected worker/ labourer is entitled to receive severance pay amounting to twice the amount of severance pay stipulated under subsection (2) of Article 156, reward pay amounting to 1 (one) time the amount of reward pay for period of employment worked stipulated under subsection (3) of Article 156 and compensation pay for entitlements left unused according to what is stipulated under subsection (4) of Article 156.

(3) In case the entrepreneur is found not guilty of committing the acts referred to under subsection by the institute for the settlement of industrial relation disputes, the entrepreneur may terminate the employment of the worker/ labourer without having the decision of the institute for the settlement of industrial relation disputes and the worker/ labourer in question is not entitled to severance pay as referred to under subsection (2) of Article 156 and reward pay for period of employment worked as referred to under subsection (3) of Article 156.

### **Article 170**

Any termination of employment that is carried out without fulfilling what is stipulated under subsection (3) Article 151 and Article 168 except subsection (1) of Article 158, subsection (3) of Article 160, Article 162, and Article 169 shall be declared null and void by law and the entrepreneur is obliged to reemploy the affected worker/ labourer and pay all the wages and entitlements which the affected worker/ labourer should have received.

### **Article 171**

If workers/ labourers whose employment is terminated without the

decision of the institute for the settlement of industrial relation disputes as referred to under subsection (1) of Article 158, subsection (3) of Article 160 and Article 162 cannot accept the termination of their employment, the workers/ labourers in question may file a lawsuit to the institute for the settlement of industrial relation disputes within a period of no later than 1 (one) year since the date on which their employment was terminated.

### **Article 172**

Workers/ labourers who are continuously ill for a very long time, who are disabled as a result of a work accident and are unable to perform their work may, after they have been in such a condition for more than the absenteeism limit of 12 (twelve) months consecutively, request that their employment be terminated upon which they shall be entitled to receive severance pay amounting to twice the amount of severance pay stipulated under subsection (2) of Article 156, reward pay for the period of employment they have worked amounting to twice the amount of such reward pay stipulated under subsection (3) of Article 156, and compensation pay amounting to one time the amount of that which is stipulated under subsection (4) of Article 156.

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## **CHAPTER XIII MANPOWER DEVELOPMENT**

### **Article 173**

(1) The government shall make efforts to develop and build up elements and activities related to manpower.

(2) The efforts to develop manpower-related elements and activities as referred to under subsection (1) may invite participation of entrepreneurs' organizations, trade/ labour unions and other related organizations of professions.

(3) The efforts to develop manpower -related elements and activities as referred to under subsection (1) and subsection (2) shall be carried out in a well-integrated and well-coordinated way.

### **Article 174**

For the purpose of manpower development, the government, associations of entrepreneurs, trade/ labour unions and other professions organizations may establish international cooperation in

the field of labour according to valid laws and regulations.

### **Article 175**

(1) The government may award persons or institutes that have done great or meritorious service in the field of manpower development.

(2) The award as referred to under subsection (1) may be given in the form of a charter, money and or other forms of reward.

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## **CHAPTER XIV LABOUR INSPECTION**

### **Article 176**

Labour inspection shall be carried out by government labour inspectors who have the competence and independency to guarantee the implementation of labour laws and regulations.

### **Article 177**

The labour inspectors as referred to under Article 176 shall be determined by Minister or other government officials appointed to act on Minister's behalf.

### **Article 178**

(1) Labour inspection shall be carried out by a separate working unit of a government agency whose scope of duty and responsibility are in the field of labour at the Central Government, Provincial Governments and District/ City Governments.

(2) The implementation of labour inspection as referred to under subsection (1) shall be determined and specified further with a Presidential Decision.

### **Article 179**

(1) The working units for labour inspection as referred to under Article 178 at the Provincial Governments and District/ City Governments are obliged to submit reports on the implementation of labour inspection to Minister.

(2) Procedures for submitting the reports as referred to under subsection (1) shall be determined and specified with a Ministerial Decision.

### **Article 180**

Rulings concerning the requirements for the appointment of, the rights and obligations of, the authority of, labour inspectors as referred to under Article 176 shall accord with [the existing] valid laws and regulations.

### **Article 181**

In carrying out their duties as referred to under Article 176, labour inspectors are obliged:

- a. To keep secret everything that, by its nature, needs or is worthy to be kept secret;
- b. To refrain from abusing their authority.

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## **CHAPTER XV INVESTIGATION**

### **Article 182**

(1) Special authority to act as civil servant investigators (*Penyidik Pegawai Negeri Sipil*) may also be given, in addition to the one assigned to the investigating officials of the Police of the State of the Republic of Indonesia, to labour inspectors in accordance with valid laws and regulations.

(2) The civil servant investigators as referred to under subsection (1) shall have the authority:

- a. To examine whether or not reports and accounts about labour crimes are true;
- b. To investigate individuals suspected of having committed a labour crime;
- c. To require explanations and evidences from persons or legal bodies considered to be relevant to the labour crime being investigated;
- d. To examine or confiscate objects or evidences found in a case of labour crime;
- e. To examine papers and/or other documents connected with labour crimes;
- f. To request the help of experts in performing labour-related criminal investigations; and
- g. To stop investigation if there is not enough evidence to prove that a labour crime has been committed.

(3) The authority of civil servant investigators as referred to under subsection (2) shall be exercised in accordance with valid laws and regulations.

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## **CHAPTER XVI CRIMINAL REGULATIONS AND ADMINISTRATIVE SANCTIONS**

### **Part One Criminal Regulations**

#### **Article 183**

(1) Whosoever violates what is stipulated under Article 74 shall be subjected to a criminal sanction in jail for a minimum of 2 (two) years and a maximum of 5 (five) years and/or a fine of a minimum of Rp200,000,000 (two hundred million rupiah) and a maximum of Rp500,000,000 (five hundred million rupiah).

(2) The crime [criminal action] referred to under subsection (1) is [shall be legally categorized as] a felony.

#### **Article 184**

(1) Whosoever violates what is referred to under subsection (5) of Article 167 shall be subjected to a criminal sanction in jail for a minimum of 1 (one) year and a maximum of 5 (five) years and or a fine of a minimum of Rp100,000,000 (one hundred million rupiah) and a maximum of Rp500,000,000 (five hundred million rupiah).

(2) The crime referred to under subsection (1) is [shall be legally categorized as] a felony.

#### **Article 185**

(1) Whosoever violates what is stipulated under subsection (1) and subsection (2) of Article 42, Article 68, subsection (2) of article 69, Article 80, Article 82, subsection (1) of Article 90, Article 139, Article 143, and subsection (4) and subsection (7) of Article 160 shall be subjected to a criminal sanction in jail for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of a minimum of Rp100,000,000 (one hundred million rupiah) and a maximum of Rp400,000,000 (four hundred million rupiah).

(2) The crime referred to under subsection (1) is [shall be legally



categorized as] a felony.

### **Article 186**

(1) Whosoever violates what is stipulated under subsection (2) and subsection (3) of Article 35, subsection (2) of Article 93, Article 137, and subsection (1) of Article 138 shall be subjected to a criminal sanction in jail for a minimum of 1 (one) month and a maximum of 4 (four) years and/or a fine of a minimum of Rp10,000,000 (ten million rupiah) and a maximum of Rp400,000,000 (four hundred million rupiah).

(2) The crime referred to under subsection (1) is [shall be legally categorized as] a misdemeanor.

### **Article 187**

(1) Whosoever violates what is stipulated under subsection (2) of Article 37, subsection (1) of Article 44, subsection (1) of Article 45, subsection (1) of Article 67, subsection (2) of Article 71, Article 76, subsection (2) of Article 78, subsection (1) and subsection (2) of Article 79, subsection (3) of Article 85, and Article 144 shall be subjected to a criminal sanction in jail for a minimum of 1 (one) month and a maximum of 12 (twelve) months and/or a fine of a minimum of Rp10,000,000 (ten million rupiah) and a maximum of Rp100,000,000 (one hundred million rupiah).

(2) The crime referred to under subsection (1) is [shall be legally categorized as] a misdemeanor.

### **Article 188**

(1) Whosoever violates what is stipulated under subsection (2) of Article 14, subsection (2) of Article 38, subsection (1) of Article 63, subsection (1) of Article 78, subsection (1) of Article 108, subsection (3) of Article 111, Article 114, and Article 148 shall be subjected to a criminal sanction in the form of a fine of a minimum of Rp5,000,000 (five million rupiah) and a maximum of Rp50,000,000 (fifty million rupiah).

(2) The crime referred to under subsection (1) is [shall be legally categorized as] a misdemeanor.

### **Article 189**

Sanctions imposed on entrepreneurs in the form of a jail sentence, lockup, and/or a fine do not release the affected entrepreneurs

from their obligations to pay entitlements and/or compensations to people available for work or workers/ labourers.

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## **Part Two Administrative Sanctions**

### **Article 190**

(1) Minister or another government official appointed on Minister's behalf shall impose administrative sanctions because of violations against what is stipulated under Article 5, Article 6, Article 15, Article 25, subsection (2) of Article 38, subsection (1) of Article 45, subsection (1) of Article 47, Article 48, Article 87, Article 106, subsection (3) of Article 126, and subsection (1) and subsection (2) of Article 160 of this act and its implementing regulations.

(2) The administrative sanctions as referred to under subsection (1) may take the form of:

- a. A rebuke;
- b. A written warning;
- c. [Legal order to] restrict/ limit the business activities of the affected enterprise;
- d. [Legal order to] freeze the business activities of the affected enterprise;
- e. Cancellation of approval;
- f. Cancellation of registration;
- g. Temporary termination of partial or the whole production tools/ instruments;
- h. Abolishment/ revocation of license or permission to operate.

(3) Rulings concerning administrative sanctions as referred to under subsection (1) and subsection (2) shall be determined and specified further by Minister.

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## **CHAPTER XVII TRANSITIONAL REGULATIONS**

### **Article 191**

All implementing regulations that regulate manpower shall remain

effective as long as they do not run against and/or have not been replaced by the new regulations made based on this act.

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## **CHAPTER XVIII CLOSING PARAGRAPHS**

### **Article 192**

At the time this act starts to take effect, then:

1. Ordinance concerning the Mobilization of Indonesian People To Perform Work Outside of Indonesia (*Staatsblad* Year 1887 Number 8);
2. Ordinance dated December 17, 1925, which is a regulation concerning Restriction of [the use of] Child Labour and Night Work for Women (*Staatsblad* Year 1925 Number 647);
3. Ordinance Year 1926, which is a regulation which regulates the Employment of Child and Youth on Board of A Ship (*Staatsblad* Year 1926 Number 87);
4. Ordinance dated May 4, 1936 concerning Ordinance To Regulate Activities To Recruit Candidates/ Prospective Workers (*Staatsblad* Year 1936 Number 208);
5. Ordinance concerning the Repatriation of Labourers Who Come From or Are Mobilized From Outside of Indonesia (*Staatsblad* Year 1939 Number 545);
6. Ordinance Number 9 Year 1949 concerning Restriction of Child Labour (*Staatsblad* Year 1949 Number 8);
7. Act Number 1 Year 1951 concerning the Declaration of the Enactment of Employment Act Year 1948 Number 12 From the Republic of Indonesia For All Indonesia (State Gazette Year 1951 Number 2);
8. Act Number 21 Year 1954 concerning Labour Agreement Between Labour Union and Employer (State Gazette Year 1954 Number 69, Supplement to State Gazette Number 598a);
9. Act Number 3 Year 1958 concerning the Placement of Foreign Workers (State Gazette Year 1958 Number 8);
10. Act Number 8 Year 1961 concerning Compulsory Work for University Graduates Holding Master's Degree (State Gazette Year 1961 Number 207, Supplement to State Gazette Number 2270);
11. Act Number 7 Year 1963 Serving as the Presidential Resolution on the Prevention of Strike and/or Lockout at Vital Enterprises,

Government Agencies In Charge of Public Service and Agencies (State Gazette Year 1963 Number 67);

12. Act Number 14 Year 1969 concerning Fundamental Rulings concerning Manpower (State Gazette Year 1969 Number 55, Supplement to State Gazette Number 2912);
13. Act Number 25 Year 1997 concerning Manpower (State Gazette Year 1997 Number 73, Supplement to State Gazette Number 3702);
14. Act Number 11 Year 1998 concerning the Change in the Applicability of Act Number 25 Year 1997 concerning Manpower (State Gazette Year 1998 Number 184, Supplement to State Gazette Number 3791);
15. Act Number 28 Year 2000 concerning the Establishment of Government Regulation in lieu of Law Number 3 Year 2000 concerning Changes to Act Number 11 Year 1998 concerning the Change in the Applicability of Act Number 25 Year 1997 concerning Manpower into Act (State Gazette Year 2000 Number 204, Supplement to State Gazette Number 4042)

shall herewith be declared null and void.

### **Article 193**

This act starts to take effect on the date of its promulgation. So that everybody is cognizant of this act, [the president] orders the promulgation of this act by having it published in the State Gazette of the Republic of Indonesia.

*Legalized in Jakarta  
On March 25, 2003*

**PRESIDENT OF THE REPUBLIC OF INDONESIA  
MEGAWATI SOEKARNOPUTRI**

*Promulgated in Jakarta:  
On March 25, 2003*

**STATE SECRETARY OF THE REPUBLIC OF INDONESIA  
BAMBANG KESOWO**

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SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA

No. 4247 MANPOWER. *Labour. Work Agreement. Employment Relations. Inspection. Termination of Employment. Workers' Institute. Wages. Central Government. Regional Governments. (Explanation of the State Gazette of the State of the Republic of Indonesia of the Year 2003 Number 39.)*

**EXPLANATORY NOTES ON THE ACT OF THE REPUBLIC OF  
INDONESIA  
NUMBER 13 OF THE YEAR 2003  
CONCERNING LABOUR**

**1. General**

Manpower development as an integral part of the national development based on the *Pancasila* and the 1945 Constitution shall be carried out within the framework of building up Indonesians as fully integrated human beings and the overall, integrated development of Indonesia's society in order to enhance the dignity, values and status of manpower and to create a prosperous, just and well-off society in which material and spiritual benefits are evenly distributed.

Manpower development must be regulated in such a way so as to fulfill the rights of and [to provide] basic protection to manpower and workers/ labourers and at the same time to be able to create conducive conditions for the development of the world of business.

Manpower development has many dimensions and interconnectivity. The interconnectivity is not only related to the interests of the workforce during, prior to and after the term of employment but also related to the interests of the entrepreneur, the government and the public. Therefore, comprehensive and all-inclusive arrangements are needed. And this shall include, among others, the development of human resources, improvement of productivity and competitiveness of Indonesian manpower, efforts to extend job opportunities, job placement service, and industrial relations development.

Industrial relations development as part of manpower development must be directed to keep on realizing industrial relations that are harmonious, dynamic and based on justice. For this purpose, recognition and appreciation of human rights as stated under the Decree of the People's Consultative Assembly Number XVII of 1998 (TAP MPR NO. XVII/MPR/1998) must be realized. As far as manpower business is concerned, this MPR decree serves as a chief

milestone in promoting and upholding democracy in the workplace. It is expected that the implementation of democracy in the workplace will encourage optimal participation from all manpower and workers/ labourers of Indonesia to build the aspired State of Indonesia.

Some valid statutory legislation concerning manpower that has been ongoing thus far, including parts that are of colonial products, put workers in a less advantageous position especially when it comes to job placement service and industrial relations system that put too much emphasis on differences of positions and interests so that they are no longer suitable for today's needs as well as for future demands. The statutory legislation in question is:

- Ordinance concerning the Mobilization of Indonesian People To Perform Work Outside of Indonesia (*Staatsblad* Year 1887 Number 8);
- Ordinance dated December 17, 1925, which is a regulation concerning the Imposition of Restriction on Child Labour and Night Work for Women (*Staatsblad* Year 1925 Number 647);
- Ordinance Year 1926, which is a regulation concerning Child and Youth Labour on Board of A Ship (*Staatsblad* Year 1926 Number 87);
- Ordinance dated May 4, 1936 concerning Ordinance To Regulate Activities To Recruit Candidates (*Staatsblad* Year 1936 Number 208);
- Ordinance concerning the Repatriation of Labourers Who Come From or Are Mobilized From Outside of Indonesia (*Staatsblad* Year 1939 Number 545);
- Ordinance Number 9 Year 1949 concerning Restriction of Child Labour (*Staatsblad* Year 1949 Number 8);
- Act Number 1 Year 1951 concerning the Declaration of the Enactment of Employment Act Year 1948 Number 12 From the Republic of Indonesia For All Indonesia (State Gazette Year 1951 Number 2);
- Act Number 21 Year 1954 concerning Labour Agreement Between Labour Union and Employer (State Gazette Year 1954 Number 69, Supplement to State Gazette Number 598a);
- Act Number 3 Year 1958 concerning the Placement of Foreign Manpower (State Gazette Year 1958 Number 8);
- Act Number 8 Year 1961 concerning Compulsory Work for University Graduates Holding Master's Degree (State Gazette Year 1961 Number 207, Supplement to State Gazette Number

2270);

- Act Number 7 of the Year 1963 serving as the Presidential Resolution on Prevention of Strike and or Lockout at Vital Enterprises, Government Agencies In Charge of Public Service and Agencies (State Gazette Year 1963 Number 67);
- Act Number 14 Year 1969 concerning Fundamental Rulings concerning Manpower (State Gazette Year 1969 Number 55, Supplement to State Gazette Number 2912);
- Act Number 25 Year 1997 concerning Manpower (State Gazette of the Republic of Indonesia Year 1997 Number 73, Supplement to State Gazette of the Republic of Indonesia Number 3702);
- Act Number 11 Year 1998 concerning the Change in the Applicability of Act Number 25 Year 1997 concerning Manpower (State Gazette Year 1998 Number 184, Supplement to State Gazette Number 3791);
- Act Number 28 Year 2000 concerning the Establishment of Government Regulation in lieu of Law Number 3 Year 2000 concerning Changes to Act Number 11 Year 1998 concerning the Change in the Applicability of Act Number 25 Year 1997 concerning Manpower into Act (State Gazette Year 2000 Number 204, Supplement to State Gazette Number 4042).

The above-mentioned statutory legislation is considered necessary to be revoked and replaced by a new act. Relevant rulings of the old statutory rules and regulations are accommodated under this manpower act. Implementing regulations from the abolished acts shall remain effective until new implementing regulations are established to replace them.

This act does not only abolish rules, regulations and rulings that are no longer suitable/ relevant in the manpower context of today but also accommodate very fundamental changes in all aspects of the life of Indonesians as a nation that started with the 1998 reformatory era.

At international labour forums, fundamental human rights in the workplace are recognized through the 8 (eight) core conventions of the International Labour Organization (ILO). These core conventions are basically made up of four groups:

- Freedom of Association (ILO Conventions No. 87 and 98);
- Prohibition against Discrimination (ILO Conventions No. 100 and 111);

- Abolition of Forced Labour (ILO Conventions No. 29 and 105);
- Minimum Age for Admission to Employment (ILO Convention No. 138 and No. 182).

Indonesians, as a nation, are committed to the recognition and appreciation of fundamental human rights in the workplace. This has been realized, among others, through the ratification of the 8 (eight) core conventions of the ILO. In line with the ratification in recognition of the fundamental rights, this manpower act must also reflect observance and appreciation of the seven core principles.

This act contains, among others:

- Statutory bases, fundamental principle and the objectives of manpower development;
- Manpower planning and manpower information;
- Provision of equal opportunities and equal treatment for manpower and workers/ labourers;
- Job training that is directed to improve and develop skills and expertise of manpower in order to increase labour productivity as well as enterprise productivity;
- Job placement service in order to optimally use manpower and the placement of people available for work in jobs that uphold human values and human dignity as a form of responsibility of the government and the society in efforts to extend job opportunities;
- The proper use of manpower of foreign citizenship in accordance with the competences that are needed.
- Industrial relations development that accords with the values of the *Pancasila*, directed towards the development of harmonious, dynamic and justice-based relations among actors of production process;
- Institutional development and structures of industrial relations, including collective work agreements, bipartite cooperative institutes, tripartite cooperative institutes, the provision of information on industrial relations to the society, and the settlement of industrial relations disputes.
- Protection for workers/ labourers, including protection of the worker/ labourer's fundamental rights to negotiate with the entrepreneur, protection of the worker/ labourer's occupational safety and health, special protection for female workers/ labourers, children, youths and disabled or handicapped workers, and protection concerning wages, welfare and social



- security for employees;
- Labour inspection, in order to make sure that statutory rules and regulations concerning manpower are indeed carried out, as they should.

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## II. ARTICLE BY ARTICLE

### Article 1

From Number 1 to Number 33: Sufficiently clear

### Article 2

The National Development shall be carried out in the framework of the whole, undivided development of Indonesians as a human being. Therefore, manpower development shall be carried out with the aim to develop Indonesians and the Indonesian society as a whole into a prosperous, just, and well-off society in which material and spiritual benefits are evenly shared.

### Article 3

The fundamental principle of manpower development basically accords with the fundamental principle of national development, in particular with the fundamental principle of democracy of the *Pancasila* and the fundamental principle of social justice and equity. Manpower development has many dimensions and interconnectivity with many stakeholders such as the government, the entrepreneur and the worker/ labourer. Therefore, manpower development shall be carried out in an integrated manner and in the form of a mutually supportive cooperation.

### Article 4

Point a

The empowerment [*pemberdayaan*] and the effective employment of manpower and the development of their potentials [*pendayagunaan*] shall go hand in hand as an integrated activity aimed at providing as many job opportunities as possible to Indonesian manpower. Through the empowerment and their employment/ potential development, Indonesian manpower shall be able to participate optimally in the national development but with keeping on upholding their values as human beings.

Point b

All efforts must be made to ensure equal distribution of job opportunities throughout all the territory of the Unitary State of the Republic of Indonesia as a unified unity of job markets by providing equal opportunities to all Indonesian manpower to find a job that is in line with their talents, interest and capabilities. All efforts must also be made to ensure equal distribution of job placement in order to fulfill the needs in all sectors and regions.

Point c: Sufficiently clear

Point d: Sufficiently clear

### **Article 5**

Every person who is available for a job shall have the same right and opportunity to find a decent job and to earn a decent living without being discriminated against on grounds of sex, ethnicity, race, religion, political orientation, in accordance with the person's interest and capability, including the provision of equal treatment to the disabled.

### **Article 6**

Entrepreneurs are under an obligation to give the worker/ labourer equal rights and responsibilities without discrimination based on sex, ethnicity, race, religion, skin color, and political orientation.

### **Article 7**

#### Subsection (1)

Manpower planning that is formulated and established by the government shall be implemented through sector-based, regional [provincial, district/ city] and national manpower planning approaches.

#### Subsection (2)

Point a

Macro manpower planning is a process of systematically formulating manpower planning, which makes effective, productive and optimal use of workforce in order to support economic or social developments at national, regional or sector-based level. In this way as many as possible job opportunities can be made available while job productivity

and workers/ labourers' welfare can also be increased.

Point b

Micro manpower planning is a process of systematically formulating manpower planning within an agency - either a government agency or a private agency - in order to enhance the effective, productive and optimal use of workforce to support the achievement of high performance at the agency or enterprise concerned.

Subsection (3): Sufficiently clear

### **Article 8**

Subsection (1)

Manpower information is collected and processed according to the objectives of the formulation of national manpower planning and provincial or district or city manpower planning.

Subsection (2)

For the sake of manpower development, the participation of the private sector is expected to provide information concerning manpower. The term "private sector" shall include enterprises/ companies, universities, and non-government organizations at central level, provincial or district/ city levels.

Subsection (3): Sufficiently clear

### **Article 9**

Welfare improvement as referred to under this Article shall mean the welfare gained by people available for a job through the fulfillment of work competence [that enables him or her to find a job] acquired by means of job training.

### **Article 10**

Subsection (1): Sufficiently clear

Subsection (2)

Work competence standards shall be established by Minister by including the sectors concerned.

Subsection (3)

Job training commonly comes in three levels: elementary level, intermediate level and advanced level.

Subsection (4): Sufficiently clear

**Article 11:** Sufficiently clear

**Article 12**

Subsection (1)

Users of skilled manpower are entrepreneurs. Therefore, entrepreneurs are responsible for organizing job training in order to improve their workers' competence.

Subsection (2)

Entrepreneurs are obliged to enhance and/or develop the competence of their workers/ labourers because it is the enterprise that will benefit from the enhancement of their workers/ labourers' job competence.

Subsection (3)

The administration of job training shall be adjusted to the need of and the available opportunity at the enterprise so that enterprise activities are not disrupted.

**Article 13**

Subsection (1)

[What is meant by] private job training shall also include enterprise job training.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 14**

Subsection (1): Sufficiently clear

Subsection (2): Sufficiently clear

Subsection (3)

The registration of training activities administered by a government job-training institute at the government agency responsible for manpower affairs in the district/ city [where it operates] is intended to get information for optimal enhancement and development of the effectiveness of the training, training results, training structures and infrastructures.

Subsection (4): Sufficiently clear

**Article 15:** Sufficiently clear

**Article 16:** Sufficiently clear

**Article 17:** Sufficiently clear

**Article 18**

Subsection (1): Sufficiently clear

Subsection (2)

Certification of competence is a process of issuing competence-attesting certificates in a systematic and objective way through competence tests that use national as well as international competence standards as reference.

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

**Article 19:** Sufficiently clear

**Article 20**

Subsection (1)

The national job training system as referred to under this subsection is [a result of] interconnectivity and integration of various job training elements/ aspects which include, among others, participants, costs, structures and infrastructures, instructors, training programs and methods and graduates. With the existence of the national job training system, all elements and all resources of national job training found in government agencies, private agencies and companies can be optimally used.

Subsection (2): Sufficiently clear

**Article 21:** Sufficiently clear

**Article 22**

Subsection (1): Sufficiently clear

Subsection (2)

The rights of the apprentice include the right to receive pocket money and or transport money, the right to receive social security

for employees, certificate upon completion of apprenticeship if they successfully complete the apprenticeship program.

The rights of the entrepreneur, on the other hand, include the right to possess any products/ services resulted from the apprenticeship activities, the right to recruit and install successful apprentices as workers/ labourers if they meet the entrepreneur's criteria.

The obligations of the apprentice include the obligation to comply with the apprenticeship agreement, to follow apprenticeship programs and procedures, and to comply with the enterprise's discipline and rule of conduct.

The obligations of the entrepreneur, on the other hand, include the obligation to provide pocket money and/or transport money to the apprentice, training facilities and infrastructures as well as occupational safety and health equipment.

The period of apprenticeship varies, subject to the length of time needed to achieve the competence standards that have been set/ established in the apprenticeship training programs.

Subsection (3)

An apprentice who has the status of a worker/ labourer in the enterprise that employs him or her as apprentice shall have the right over everything that is determined and prescribed in the enterprise's rules and regulations or the collective work agreement.

### **Article 23**

Certification may be performed by a certification agency established by and or accredited by the government if the program is general, or by the enterprise if the program is specific.

**Article 24:** Sufficiently clear

**Article 25:** Sufficiently clear

**Article 26:** Sufficiently clear

### **Article 27**

Subsection (1): Sufficiently clear

Subsection (2)

The phrase "taking into account the interests of the enterprise" is

included under this subsection in order to ensure the availability of skilled and expert manpower at certain competence levels such specialist welders for performing welding underwater.

The phrase "the interests of the society" shall refer to, for instance, the opening up of opportunities for people to find a job in a specific industry such as plant cultivation technology with tissue culture.

The phrase "the interests of the State" shall refer to, for instance, efforts to save the country's foreign exchange reserves through apprenticeship programs aimed at enabling the apprentice to manufacture modern agricultural machines and tools.

**Article 28:** Sufficiently clear

**Article 29:** Sufficiently clear

**Article 30:** Sufficiently clear

**Article 31:** Sufficiently clear

## **Article 32**

### Subsection (1)

- The term "transparency" here refers to the giving of clear information to jobseekers concerning the type of work, the amount of wages, and working hours. This is necessary to protect workers/labourers and to avoid disputes after the placement takes place.
- The phrase "respect for each other's freedom" here is included so that jobseekers are free to pick up whatever job they like and employers are also free to pick up manpower/ jobseekers they like. Thus jobseekers must not be forced to accept a job and employers, too, must not be forced to accept any manpower [jobseeker] offered to him.
- The term "objectivity" here is intended to encourage employers to offer to jobseekers jobs that suit their abilities and qualifications. In so doing, however, employers have to consider the interests of the public and must not take sides.
- The phrase "fairness and equal opportunities without discrimination" here shall refer to placement purely based on the ability of the manpower and not based on the manpower's race, sex, skin color, religion, and political orientation.

Subsection (2): Sufficiently clear

Subsection (3)

Efforts must be made to ensure equal distribution of job opportunities in the whole territory of the State of the Republic of Indonesia as one unified unity of national job market by providing the whole manpower with the same opportunity to get a job according to their talents, interests and ability. Efforts to ensure equal distribution of job opportunities also need to be made so that the need for manpower in all sectors and regions can be fulfilled.

**Article 33:** Sufficiently clear

**Article 34**

Prior to the enactment of the act on the placement of manpower in foreign countries, all laws and regulations that regulate placement of manpower in foreign countries shall remain valid.

**Article 35**

Subsection (1)

"Employers" under this subsection refer to domestic employers.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 36:** Sufficiently clear

**Article 37**

Subsection (1)

Point a

The establishment of government agencies responsible for manpower affairs at central and regional level shall be determined and specified according to valid laws and regulations.

Point b: Sufficiently clear

Subsection (2): Sufficiently clear

**Article 38:** Sufficiently clear

**Article 39:** Sufficiently clear



**Article 40:** Sufficiently clear

**Article 41**

Because efforts to extend job opportunities are of cross-sector coverage, a national policy must be made in all sectors to absorb manpower optimally. In order to properly implement the national policy, the government and society shall jointly and in a coordinated way monitor and control the implementation of the policy.

**Article 42**

Subsection (1)

The requirement to obtain permission for the use of manpower of foreign citizenship is intended to ensure selective employment of manpower of foreign citizenship so that Indonesian manpower can be used and developed optimally.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

Subsection (6): Sufficiently clear

**Article 43**

Subsection (1)

The plan for the use of manpower of foreign citizenship is a requirement to get working permit (IKTA).

Subsection (2): Sufficiently clear

Subsection (3)

The "international agencies" under this subsection refer to non-profit international organizations under the United Nations such as the ILO, WHO or UNICEF.

Subsection (4): Sufficiently clear

**Article 44**

Subsection (1)

The "competence standards" here refer to qualifications that must

be had by manpower of foreign citizenship such as knowledge, skills and expertise in certain fields and understanding of Indonesian culture.

Subsection (2): Sufficiently clear

### **Article 45**

Subsection (1)

Point a

Indonesian workers who accompany workers of foreign citizenship do not automatically replace or occupy the position of the workers of foreign citizenship that they accompany. The accompaniment is emphasized on transfer of technology and transfer of expertise/ skills so that the accompanying Indonesian workers may get ability to replace the workers of foreign citizenship that they accompany in due time.

Point b

Vocational education and training by employers may be carried out either at home or by sending Indonesian manpower to foreign countries for training.

Subsection (2): Sufficiently clear

**Article 46:** Sufficiently clear

### **Article 47**

Subsection (1)

The obligation to pay compensation is intended to support efforts to increase the quality of Indonesian human resources.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

**Article 48:** Sufficiently clear

**Article 49:** Sufficiently clear

**Article 50:** Sufficiently clear

## **Article 51**

### Subsection (1)

Principally, work agreements shall be made in writing. However, given the various conditions in the society, oral work agreements are possible.

### Subsection (2)

Work agreements that specify work requirements in writing must accord with valid laws and regulations, including work agreements for a specified period of time, inter-work inter-region, inter-work inter-country and maritime work agreements.

## **Article 52**

### Subsection (1)

Point a: Sufficiently clear

Point b

The phrase "capability or competence to take legally-sanctioned actions" here refers to parties who are capable or competent by law to make agreements. Work agreements for child workers shall be signed by their parents or guardians.

Point c: Sufficiently clear

Point d: Sufficiently clear

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 53:** Sufficiently clear

## **Article 54**

Subsection (1): Sufficiently clear

### Subsection (2)

What is meant by the phrase "must not run against" stated under this subsection is that if the enterprise already has its rules and regulations or its collective work agreement, then the content of the work agreement, both in terms of quality and quantity, may not be lower than what is stipulated under the enterprise's rules and regulations or the enterprise's collective work agreement.

Subsection (3): Sufficiently clear

**Article 55:** Sufficiently clear

**Article 56:** Sufficiently clear

**Article 57:** Sufficiently clear

**Article 58:** Sufficiently clear

**Article 59**

Subsection (1)

The work agreement as referred to under this subsection shall be registered with the government agency responsible for manpower affairs.

Subsection (2)

"Jobs that are permanent by nature" refer to continuous, uninterrupted jobs that are not confined by a timeframe and are part of production process in an enterprise or jobs that are not seasonal.

Jobs that are not seasonal are jobs that do not depend on the weather or certain conditions. If a job is a continuous, uninterrupted job that is not confined by a timeframe and part of a production process but [whose performance] depends on the weather or the job comes into being [literal: is needed] because of the existence of a certain condition, then the job is a seasonal job. The job does not belong to permanent employment and hence, can be subjected to a work agreement for a specified period of time [literal: can become an object of work agreement for a specified period of time].

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

Subsection (6): Sufficiently clear

Subsection (7): Sufficiently clear

Subsection (8): Sufficiently clear

## **Article 60**

### Subsection (1)

A requirement for a probationary period must be stated in a work agreement. If the work agreement is made orally, the requirement for a probationary period must be made known to the worker and stated in the worker's letter of appointment. If the work agreement or the letter of appointment is silent about probationary period, probationary period shall be considered non-existent.

Subsection (2): Sufficiently clear

## **Article 61**

### Subsection (1)

Point a: Sufficiently clear

Point b: Sufficiently clear

Point c: Sufficiently clear

Point d

A certain situation or incident which may result in the termination of employment refers to certain conditions such as natural disasters, social upheavals/ unrest and security disturbances.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

### Subsection (5)

What is meant by the worker's entitlements that accord with valid statutory legislation or the entitlements that has been prescribed in the work agreement, the enterprise's rules and regulations, or the enterprise's collective work agreement are entitlements [rights] that must be given [paid] that are better and more beneficial for the worker/ labourer.

**Article 62:** Sufficiently clear

**Article 63:** Sufficiently clear

**Article 64:** Sufficiently clear

**Article 65:** Sufficiently clear

**Article 66**

Subsection (1)

If the job is related to the entrepreneur's core business activities or activities directly connected with production process, the entrepreneur is only allowed to employ workers/ labourers under an employment/ work agreement for a specified period of time and/or under a work agreement for an unspecified period of time.

What is meant by 'auxiliary service activities' or 'activities indirectly related to production process' are activities outside of the core business of the enterprise.

Such activities include, among others, activities associated with the provision of cleaning service, the provision of catering service (a supply of food) to workers/ labourers, the provision of a supply of security guards, auxiliary business activities in the mining and oil sectors, and the provision of transport for workers/ labourers.

Subsection (2)

Point a: Sufficiently clear

Point b: Sufficiently clear

Point c

Issues concerning wage and welfare protection, working requirements/ conditions and settlements of disputes between labour providers/ suppliers and workers/ labourers must be deal with in accordance with valid statutory legislation.

As far as wage and welfare protection, working conditions, and protection in the event of a dispute are concerned, workers/ labourers who work at labour provider enterprises shall receive (the same) entitlements as the ones provided in the enterprises that use their service in accordance with work agreements, enterprise rules and regulations or collective work agreements.

Point d: Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

**Article 67**

Subsection (1)

The protection to disabled workers according to the type and severity of the disability as referred to under this subsection refers to, for instance, the provision of accessibility, working tools, and personal protective equipment that are adjusted to the type and severity of the worker's disability.

Subsection (2): Sufficiently clear

**Article 68:** Sufficiently clear

**Article 69:** Sufficiently clear

**Article 70:** Sufficiently clear

**Article 71**

Subsection (1)

What is stipulated under this subsection is intended to protect children in such a way that the development of their talents and interest - that commonly takes place at their age - is not disrupted.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 72:** Sufficiently clear

**Article 73:** Sufficiently clear

**Article 74:** Sufficiently clear

**Article 75**

Subsection (1)

Efforts to overcome problems associated with children who work outside of employment relations are intended to ensure that no child works outside of employment relations or to reduce the number of children who work outside of employment relations. These efforts must be carried out in a well-planned, well-integrated and well-coordinated manner with related agencies.

Children who work outside of employment relations are for instance shoeshine boys or newspaper boys.

Subsection (2): Sufficiently clear

### **Article 76**

Subsection (1)

Entrepreneurs shall be the ones responsible for the violation of this article. Should female workers/ labourers as referred to under this subsection be employed between 11 p.m. until 7 a.m., the one who shall be held responsible for this violation would be the entrepreneur.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

### **Article 77**

Subsection (1): Sufficiently clear

Subsection (2): Sufficiently clear

Subsection (3)

Under this subsection, certain business sectors or certain types of work refer to, for instance, work on offshore oil drilling rigs/ platforms, work involving long distance driving of vehicles, work involving long distance flight, work at sea (on a ship) or work involving the felling of trees.

Subsection (4): Sufficiently clear

### **Article 78**

Subsection (1)

Employing workers beyond normal working hours must be avoided because workers/ labourers must have enough time to take a rest and recover their fitness. However, in certain cases there are urgent needs in which work must be immediately and inevitably done so that workers/ labourers have to work beyond normal working hours.



Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

### **Article 79**

Subsection (1): Sufficiently clear

Subsection (2)

Point a: Sufficiently clear

Point b: Sufficiently clear

Point c: Sufficiently clear

Point d

While taking a long period of rest, workers/ labourers are given compensation pay for their entitlement to the eighth year's annual leave amounting to half their monthly salary [wages]. Enterprises that have already applied a long period of rest that is better than the one stipulated under this act are not allowed to reduce it.

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

### **Article 80**

What is meant by the provision of 'adequate opportunity to pray' shall refer to the provision of a place for praying to and worshipping God that enables workers/ labourers to properly perform their religious obligations/ rituals, in which the enterprise's conditions and financial ability for the provision of such a place shall be taken into account.

**Article 81:** Sufficiently clear

### **Article 82**

Subsection (1)

The length of the period of rest may be extended if such is [medically] required as attested by a written [medical] statement

from the obstetrician or midwife either prior to or after the delivery.

Subsection (2): Sufficiently clear

### **Article 83**

What is meant by providing proper opportunities to female workers/ labourers to milk-feed their babies during working hours are periods of time provided by the enterprise to the female workers/ labourers to milk-feed their babies, by taking into account the availability of a place/ room that can be used for such a purpose according to the enterprise's conditions and financial ability, which shall be regulated in enterprise rules and regulations or collective work agreements.

**Article 84:** Sufficiently clear

### **Article 85**

Subsection (1): Sufficiently clear

Subsection (2)

What is stipulated under this subsection is intended to serve the public interest and public welfare. Moreover, there is work whose type and nature are such that it is impossible to stop it.

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

### **Article 86**

Subsection (1): Sufficiently clear

Subsection (2)

Occupational safety and health efforts are intended to provide guarantee of safety and increase the level of health of workers/ labourers by preventing occupational accidents and diseases, controlling hazards in the workplace, promoting health, medical care and rehabilitation.

Subsection (3): Sufficiently clear

### **Article 87**

Subsection (1)

The occupational safety and health management system is part of the overall management system of the enterprise, which includes

organizational structure, planning, implementation, responsibility, procedures, processes, and resources that are needed for the development, application, achievement, study and maintenance of the enterprise's occupational safety and health policy in order to control the risks associated with working activities for the creation of secure, efficient and productive workplace.

Subsection (2): Sufficiently clear

### **Article 88**

Subsection (1)

Income that enables workers/ labourers to properly meet their livelihood needs refers to the amount of income or earning that workers/ labourers earns from their work so that they can reasonably meet what they and their families need for living, including the ability to meet the need for food and drinks, clothes, housing, education, healthcare, recreation and old age benefit.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

### **Article 89**

Subsection (1)

Point a: Sufficiently clear

Point b

Sector-based minimum wages can be established for business groups by sector and their breaking down according to business classification by sector nationwide (Indonesia), by district/ city or province. Such sector-based minimum wages in any given area must not be lower than the regional minimum wages applicable to the area in question.

Subsection (2)

The phrase "shall follow the guidance for meeting the need for decent living" as referred to under this subsection shall mean that the setting of minimum wages must be adjusted to the level at which the minimum wages are on par with [can be used to meet] the need for decent living. The amount of such minimum wages

shall be determined by Minister.

Subsection (3): Sufficiently clear

Subsection (4)

The meeting of the need for decent living needs to be made gradually because the need for decent living is an upgrade of the need for minimum living that heavily depends on the level of financial ability of the world of business.

## **Article 90**

Subsection (1) : Sufficiently clear

Subsection (2)

The postponement of the payment of minimum wages by an enterprise that is financially not able to pay minimum wages is intended to [temporarily] release the enterprise from having to pay minimum wages for a certain period of time. If the postponement comes to an end, the enterprise is under an obligation to pay minimum wages that are applicable at the time but is not obliged to make up the difference between the wages it actually paid and the applicable minimum wages during the period of time of the postponement.

Subsection (3): Sufficiently clear

**Article 91:** Sufficiently clear

## **Article 92**

Subsection (1)

The formulation of wages structures and scales is intended as a guideline for setting wages so that the wages of each worker can be determined with certainty. Such formulation is also intended to reduce the gap between the lowest wages and the highest wages in the enterprise.

Subsection (2)

The reviewing of wages shall be done to adjust the wages to the consumer price index, the worker's performance, and the enterprise's development and financial ability.

Subsection (3): Sufficiently clear

## **Article 93**

### Subsection (1)

What is stipulated under this subsection is a fundamental principle that is basically applicable to every worker/ labourer, that is, unless the worker/ labourer cannot perform his/ her job because of mistakes that are not his/ her.

### Subsection (2)

#### Point a

A worker/ labourer is ill if there is a statement from the physician who treats him/her that states that he/she is ill.

Point b: Sufficiently clear

Point c: Sufficiently clear

#### Point d

Fulfilling one's obligation to the State means fulfilling State obligation, which is stipulated under laws and regulations.

The payment of wages to workers/ labourers who have to be absent from work because they are required to perform their obligations to the State shall be made if:

- a. The State does not pay the worker/ labourer; or
- b. The State pays him/her less than the amount of wages he/she usually receives from the enterprise where he/she works. In this case the entrepreneur is under an obligation to make up the difference.

#### Point e

Practicing or observing religious duties ordered/ required by his/her religion means practicing religious obligations according to what is required by his/her religion, which has been regulated with laws and regulations.

Point f: Sufficiently clear

Point g: Sufficiently clear

Point h: Sufficiently clear

Point i: Sufficiently clear

Subsection (3) : Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5) : Sufficiently clear

#### **Article 94**

What is meant by 'fixed allowance' under this subsection is payment to workers/ labourers that is made regularly and not commensurate with [not linked to] either the attendance or certain achievement / performance of the worker/ labourer.

#### **Article 95**

Subsection (1): Sufficiently clear

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4)

The payment of worker/ labourer's wages shall take priority over the payment of other debts. This means that workers/ labourers' wages must be the first to be paid before other debts are paid.

**Article 96:** Sufficiently clear

**Article 97:** Sufficiently clear

**Article 98:** Sufficiently clear

**Article 99:** Sufficiently clear

#### **Article 100**

Subsection (1)

Welfare facilities shall refer to, for instance, family planning service, babysitting facilities [nursery], housing facilities for workers/ labourers, special rooms for prayer or other religious facilities, sports facilities, eateries [canteens], polyclinic and other medical/ health facilities, and recreational facilities.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

#### **Article 101**

Subsection (1)

Productive business undertakings at the enterprise shall refer to economic activities that generate income other than wages.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

**Article 102:** Sufficiently clear

**Article 103:** Sufficiently clear

**Article 104**

Subsection (1)

The freedom to establish a trade/ labour union and to become or not to become member of a trade/ labour union is one of the fundamental rights of workers/ labourers.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 105:** Sufficiently clear

**Article 106**

Subsection (1)

At enterprises whose workers/ labourers number less than 50 (fifty) people, effective and proper communication and consultation can still be performed on an individual basis. However, if the enterprise has 50 (fifty) workers/ labourers or more, it is necessary to perform communication and consultation through a representative system.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

**Article 107:** Sufficiently clear

**Article 108:** Sufficiently clear

**Article 109:** Sufficiently clear

**Article 110:** Sufficiently clear

**Article 111**

Subsection (1)

Point a: Sufficiently clear

Point b: Sufficiently clear

Point c

Working/ work requirements refer to the rights and obligations of the entrepreneur and the worker/ labourer that have not been regulated/ stipulated under laws and regulations.

Point d: Sufficiently clear

Point e: Sufficiently clear

Subsection (2)

The sentence "enterprise rules and regulations shall by no means run against any valid statutory legislation" means that enterprise rules and regulations must not be lower in both quality and quantity than those stipulated under valid statutory legislation. If proved otherwise, however, the stipulations of valid statutory legislation shall apply.

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

**Article 112:** Sufficiently clear

**Article 113:** Sufficiently clear

**Article 114**

The entrepreneur is under an obligation to tell and explain to the worker/ labourer [all] the enterprise rules and regulations and [all] changes made to them [if any]. To do so, the entrepreneur may distribute the copies of enterprise rules and regulations to each worker/ labourer, post them at places where workers/ labourers can easily read them. Alternatively, the entrepreneur may also



explain them directly to workers/ labourers.

**Article 115:** Sufficiently clear

**Article 116**

Subsection (1): Sufficiently clear

Subsection (2)

Work agreements must be made in good faith. This means that there must be honesty, transparency, willingness and awareness on the part of all parties concerned in the making of the agreements without any party forcing or pressurizing another party.

Subsection (3)

If the collective work agreement is made in Indonesian and translated into another language and then differences in interpretation arise, then the collective work agreement that use or are written in Indonesian shall apply [shall be the authoritative one].

Subsection (4): Sufficiently clear

**Article 117**

Settlements through procedures for the settlement of industrial relations disputes may be carried out through mediators, conciliators, arbiters, or institutes for the settlement of industrial relation disputes.

**Article 118:** Sufficiently clear

**Article 119:** Sufficiently clear

**Article 120:** Sufficiently clear

**Article 121:** Sufficiently clear

**Article 122:** Sufficiently clear

**Article 123:** Sufficiently clear

**Article 124**

Subsection (1): Sufficiently clear

Subsection (2)

The phrase "must not run against any valid statutory legislation"

means that the contents of the collective work agreement must not be lower in both quality and quantity than their counterparts or equivalence that are stipulated under valid statutory legislation.

Subsection (3): Sufficiently clear

**Article 125:** Sufficiently clear

**Article 126:** Sufficiently clear

**Article 127:** Sufficiently clear

**Article 128:** Sufficiently clear

**Article 129:** Sufficiently clear

**Article 130:** Sufficiently clear

**Article 131:** Sufficiently clear

**Article 132:** Sufficiently clear

**Article 133:** Sufficiently clear

**Article 134:** Sufficiently clear

**Article 135:** Sufficiently clear

**Article 136:** Sufficiently clear

**Article 137**

What is meant by failed negotiation under this Article is that no agreement to settle the industrial relation dispute is reached because the entrepreneur is not willing to negotiate or because the negotiation ends in deadlock.

The sentence "strike shall be staged peacefully and orderly" means that the strike must not disrupt security and public order and or threaten the life and safety of the entrepreneur, other people or other members of the general public and the property belonging to the enterprise, the entrepreneur or other people or other members of the general public.

**Article 138:** Sufficiently clear

### **Article 139**

Enterprises that serve the public interest and/or enterprises whose types of activities, when interrupted by a strike, will lead to the endangerment of human lives are those running hospitals, fire department (which employs firefighters), those providing railway service (which employ railway gatekeepers), those in charge of sluices (which employ sluice gatekeepers), those in charge of regulating air traffic, and those in charge of sea traffic.

That the strike shall be arranged in such a way so as not to disrupt public interests and/or endanger the safety of other people means that the strike shall be carried out by workers/ labourers who are not on duty.

### **Article 140**

Subsection (1) : Sufficiently clear

Subsection (2)

Point a: Sufficiently clear

Point b

Places for staging a strike refer to places chosen by those responsible for the strike for staging the strike in a way that will not prevent other workers/ labourers from performing work.

Point c: Sufficiently clear

Point d: Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

**Article 141:** Sufficiently clear

**Article 142:** Sufficiently clear

### **Article 143**

Subsection (1)

What is meant by the word 'to prevent' under this subsection (nobody is allowed to prevent workers/ labourers and trade/ labour unions from using their right to strike legally, orderly and peacefully) is preventing the use of the right to strike by means of,

among others:

- a. Punishment;
- b. Intimidation, in whatever form; or
- c. Transfer to another position or place with the intention to put the transferee at a disadvantage

Subsection (2): Sufficiently clear

**Article 144:** Sufficiently clear

**Article 145**

Subsection (1)

The phrase 'their normative rights, which the entrepreneur has indeed violated' means that the entrepreneur is, clearly and as a matter of fact, unwilling to fulfill his/her obligations as referred to and/or as stipulated under work agreements, enterprise rules and regulations, collective work agreements or labour legislation even though he/she has been ordered to do so by the government official responsible for labour/ manpower affairs.

The payment of the wages of striking workers/ labourers as referred to under this Article shall not eliminate the imposition of sanction on entrepreneurs who violate normative provisions.

**Article 146**

Subsection (1): Sufficiently clear

Subsection (2): Sufficiently clear

Subsection (3)

If the lockout is carried out illegally or as retaliation for a legal strike which rightfully demands the fulfillment of normative rights, the entrepreneur is under an obligation to pay the worker/ labourer's wages.

**Article 147:** Sufficiently clear

**Article 148:** Sufficiently clear

**Article 149:** Sufficiently clear

**Article 150:** Sufficiently clear

**Article 151**

Subsection (1)

The phrase 'make all efforts' under this subsection refers to 'positive activities or actions which may eventually prevent termination of employment from happening, including, among others, arrangement of working time, saving measures, restructuring or reorganization of working methods, and efforts to develop the worker/ labourer.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 152:** Sufficiently clear

**Article 153:** Sufficiently clear

**Article 154:** Sufficiently clear

**Article 155:** Sufficiently clear

**Article 156:** Sufficiently clear

**Article 157:** Sufficiently clear

**Article 158:** Sufficiently clear

**Article 159:** Sufficiently clear

**Article 160**

Subsection (1)

The members of the worker/ labourer's family that are his or her dependents are his wife or her husband, children or persons who legally become the worker/ labourer's dependents according to enterprise rules and regulations, work agreements or collective work agreements.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

Subsection (6): Sufficiently clear

Subsection (7): Sufficiently clear

## **Article 161**

Subsection (1): Sufficiently clear

Subsection (2)

Each warning letter may be issued either consecutively or not consecutively, according to what is stipulated under work agreements or enterprise rules and regulations or collective work agreements.

In case the warning letter is issued consecutively then the first warning letter shall be effective for a period of 6 (six) months. If the worker/ labourer commits a violation again against what is stipulated under the work agreement or enterprise rules and regulations or collective work agreement within the 6 (six) month period of the first warning letter, the entrepreneur may issue the second warning letter, which shall also be effective for a period of 6 (six) months since the issuance of the second warning letter.

If the worker/ labourer keeps on violating what is stipulated under the work agreement or enterprise rules and regulations or collective work agreement, the entrepreneur may issue the third and last warning letter, which shall be effective for 6 (six) months since the issuance of the third warning letter. If within the effective period of the third warning letter, the worker/ labourer once again acts in violation of what is stipulated under the work agreement or enterprise rules and regulations or collective work agreement, the entrepreneur may terminate the worker/ labourer's employment.

If the six-month period since the issuance of the first warning letter is over and the worker/ labourer once again commits a violation against the work agreement, enterprise rules and regulations or collective work agreement, then the warning letter issued by the entrepreneur shall once again be the first warning letter. The same shall also apply to the second and third warning letters.

Work agreements or enterprise rules and regulations or collective work agreements may stipulate the issuance of first and last warning letter for certain types of violations. So, if the worker/ labourer violates the work agreement or enterprise rules and

regulations or collective work agreement within the effective period of the first and last warning letter, the entrepreneur may terminate the worker/ labourer's employment.

The six-month period is meant as an effort to educate the affected worker/ labourer so that he/she has time to correct his/her behavior. On the other hand, the six-month period shall give the entrepreneur enough time to evaluate the performance of the worker/ labourer in question.

Subsection (3): Sufficiently clear

**Article 162:** Sufficiently clear

**Article 163:** Sufficiently clear

**Article 164:** Sufficiently clear

**Article 165:** Sufficiently clear

**Article 166:** Sufficiently clear

**Article 167**

Subsection (1) : Sufficiently clear

Subsection (2): Sufficiently clear

Subsection (3)

An example for this subsection is:

- For instance, if the severance pay that should have been received by the worker/ labourer is Rp10,000,000 and the amount of retirement (pension) benefit payable to the worker/ labourer according to the pension program is Rp6,000,000 and arrangements have been made in the pension program that the entrepreneur pays 60% of the premium and the worker/ labourer pays the remaining 40%, then:
  - The total premiums paid by the entrepreneur are equal to  $60\% \times \text{Rp}6,000,000 = \text{Rp}3,600,000$
  - The total pension benefit for which premiums have been paid by the worker/ labourer are equal to  $40\% \times \text{Rp}6,000,000 = \text{Rp}2,400,000$
  - So, the difference that the entrepreneur has to make up is  $\text{Rp}10,000,000 - \text{Rp}3,600,000 = \text{Rp}6,400,000$ .

- This means that the money receivable by the worker/ labourer upon the termination of the worker/ labourer's employment is:
  - Rp3,600,000 (which is the benefit paid by the pension program administrator of which represents 60% of the total premiums which had been paid by the entrepreneur)
  - Rp6,400,000 (which comes from the difference in severance pay that must be made up by the entrepreneur)
  - Rp2,400,000 (which is the benefit paid by the pension program administrator which represents 40% of the total premiums which had been paid by the worker/ labourer)

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Total: Rp12,400,000 (twelve million four hundred thousand rupiah)

Subsection (4): Sufficiently clear

Subsection (5): Sufficiently clear

### **Article 168**

Subsection (1)

The phrase 'the entrepreneur has properly summoned him or her' means that the worker/ labourer has been summoned in writing through a letter sent to the address of the worker/ labourer as recorded at the enterprise on the basis of the information provided by the worker/ labourer to the enterprise. There shall be a minimum of three-workday spacing between the first summon and the second summon.

Subsection (2): Sufficiently clear

Subsection (3): Sufficiently clear

**Article 169:** Sufficiently clear

**Article 170:** Sufficiently clear

### **Article 171**

The one-year spacing reserved for dismissed workers/ labourers to file a lawsuit starting from the date on which their employment is terminated is considered as an appropriate period of time during which to file a lawsuit.

**Article 172:** Sufficiently clear

### **Article 173**

Subsection (1)



The government shall make efforts to develop and build up elements and activities related to manpower [labour]. The phrase "efforts to develop and build up" shall refer to activities carried out effectively and efficiently to get better results in order to improve and develop all manpower-related activities.

Subsection (2): Sufficiently clear

Subsection (3)

Those who shall perform the coordination as referred to under this subsection are the government agency (agencies) responsible for labour/ manpower affairs.

**Article 174:** Sufficiently clear

**Article 175:** Sufficiently clear

**Article 176**

The word "independency" attributable to labour inspectors under this subsection shall mean that in making decision, labour inspectors are not under the influence of other parties.

**Article 177:** Sufficiently clear

**Article 178:** Sufficiently clear

**Article 179:** Sufficiently clear

**Article 180:** Sufficiently clear

**Article 181:** Sufficiently clear

**Article 182:** Sufficiently clear

**Article 183:** Sufficiently clear

**Article 184:** Sufficiently clear

**Article 185:** Sufficiently clear

**Article 186:** Sufficiently clear

**Article 187:** Sufficiently clear

**Article 188:** Sufficiently clear

**Article 189:** Sufficiently clear

**Article 190:** Sufficiently clear

**Article 185:** Sufficiently clear

**Article 186:** Sufficiently clear

**Article 187:** Sufficiently clear

**Article 188:** Sufficiently clear

**Article 189:** Sufficiently clear

**Article 190:** Sufficiently clear

**Article 191**

Implementing regulations which regulate matters pertaining to labour/ manpower under this act are implementing regulations from various labour/ manpower laws irrespective of whether they have been revoked or are still in place and valid. In order to avoid legal vacuum, this act shall apply to implementing regulations that have not been revoked or replaced on the basis of this act as long as they are not against this act.

Likewise, if a labour incident or case happens before the application of this act and is still in the process of being settled through an institute for the settlement of industrial relation disputes, then in accordance with the principle of legality, implementing regulations that are in existence prior to the application of this act shall be used to settle the incident or case.

**Article 192:** Sufficiently clear

**Article 193:** Sufficiently clear

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