Better Work Indonesia is a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC). The Indonesia program is currently funded by the Government of Australia through the Australian Agency for International Development, the Netherlands Ministry of Foreign Affairs and Swiss Secretariat for Economic Affairs (SECO).
Better compliance with international and national labour standards could be promoted through information, education and awareness raising programmes aimed at investors, managers of enterprise, workers, employers, and their organizations. This Guide to Indonesia Labour Laws for the Garment Industry has been prepared by the Better Work Indonesia Programme to serve as a useful resource and reference for all interested parties in labour laws and labour relations in Indonesia.

Better work is a unique technical cooperation programme that is a joint initiative between the International Labour Organization (ILO) and the International Finance Corporation (IFC) to strengthen partnership with the private sector. In Indonesia, Better Work is bringing together Government, employer, workers and international buyers to improve compliance with labour standards and promote competitiveness in the global supply of the garment sector. Improving labour standards in global supply chains is an important part of a pro-poor development strategy. Ensuring workers rights and entitlements are protected to help distribute the benefits of trade. Better Work supports enterprises in implementing the ILO core international labour standards and national labour laws. This helps enterprises compete in global markets where many buyers demand compliance with labour standards from their suppliers. Improved labour standards compliance help enterprises be more competitive through higher productivity and quality.

This Guide aims to provide practical guidance for all stakeholders involved in implementing labour laws in the corporate environment, to create harmonious, dynamic and fair industrial relations. This Guide is presented in a simple narrative form to better facilitate the proper understanding of the major labour laws in Indonesia. One of the requirements for the effective implementation of the labour laws is community awareness and attitudes changes as demanded by the legislations. This can be done by providing sufficient information and through the publication of this Guide.

This Guide is not an interpretation or expansion of the substance contained within the major labour laws in Indonesia. It is meant more to assist in solving the problems which may emerge from the implementation of those labour laws, so that the labour laws could function in an optimal manner as an instrument to uphold and gain respect for the workers' rights and promote competitiveness of Indonesian garment factories in global markets.

We thank and convey our appreciation for all the parties involved in the preparation and publication of this Guide. We hope that this Guide will be beneficial to all stakeholders involved in the garment industry.

Jakarta, June 2012

Peter van Rooij

ILO Office Director for Indonesia and Timor Leste
This Labour Law Guide offers guidance for all stakeholders involved in implementing labour legislation in the corporate environment, to create harmonious, dynamic and fair industrial relations, where companies can grow and develop sustainably, and the welfare of workers and their families can be continually improved.

The Better Work Indonesia team has created this Guide to cover all the necessary day to day provisions which are of interest to companies, workers and unions in the corporate environment, as well as to officials, especially in the area of employment. This Guide collects and deciphers the most important labour legislation, so that it can be more easily understood and used by people working in the field, as well as others.

The Better Work Indonesia team would like to show its appreciation to everyone who has helped equip and improve this Guide. Hopefully this Guide will be useful and will help people who are involved in industrial relations understand how to apply labour legislation in Indonesia.

DISCLAIMER

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Children between 13-15 years of age can be employed to perform light work, so long as:

- The job does not disrupt their physical, mental or social development;
- The employer signs a work agreement with the parents or guardians and obtains their written permission;
- They do not work longer than 3 hours per day;
- They only work during the daytime, without disruption to their schooling; and
- The employer ensures that occupational safety and health requirements are complied with.

**Good Practice:** Employers can verify a worker’s age by requesting a copy of their National Identity Card, Birth Certificate and School Certificates, and comparing them with the original documents.
1.2.2. Training Programmes

Children age 14 or older can work as part of their school’s education curriculum or a government-approved training programme. They must be given clear instructions, as well as guidance and supervision on how to do the job. Employers must comply with occupational safety and health requirements. Nonetheless, the minimum age of apprenticeship in Indonesia is 18.

LEGAL REFERENCE:
MANPOWER ACT NO. 13 OF 2003, ART. 70
[UU KETENAGAKERJAAN NO. 13 TAHUN
2003, PASAL 70]
MOMT REGULATION NO. PER.22/MEN/
IX/2009, ART. 5 [Permenakertrans No. 22
MEN IX_2009 tentang Magang]

1.2.3. Hazardous Work

Children under 18 years of age are prohibited from performing work that endangers their health, safety or morals. They may not undertake hazardous work. Much of the work performed in garment factories is considered hazardous. Children must not operate dangerous machinery or equipment (including cutting, sewing, knitting or weaving machines, boilers or lifts), or engage in heavy lifting. They also must not perform work that could expose them to harmful chemicals, electricity, high levels of dust or noise, extreme temperatures or heights.

**Example:** Agus is 16 years of age and is learning to be a sewing machine operator in a garment factory in South Jakarta. Jobs involving sewing machines are considered hazardous, so it is prohibited for children under age 18 to undertake such work.

If the children labour were employed together with the Adult Labour, the children labour working space must be separate from the adult labor.

LEGAL REFERENCES:
MOMT DECREE NO. KEP.235/MEN/2003,
ARTS. 1-4 AND ATTACHMENT
[KEPUTUSAN MENAKERTRANS NO.
KEP.235/MEN/2003, PASAL 2, 3 DAN
LAMPIRAN].
MANPOWER ACT NO. 13 OF
2003, ARTS. 52(1)(B), 74 [UU
KETENAGAKERJAAN NO. 13 TAHUN
2003, PASAL 2, 3 DAN
LAMPIRAN].
MOMT REGULATION NO. PER.22/MEN/
IX/2009, ART. 5 [Permenakertrans No. 22
MEN IX_2009 tentang Magang].

Resource Guide:
Employers and Child Labour, Guide 1:
Introduction to the Issue of Child Labour,
ILO (2007);
Employers and Child Labour, Guide 2:
How Employers can Eliminate Child
Labour, ILO (2007);
Employers and Child Labour, Guide 3:
The Role of Employers’ Organization in
Combating Child Labour, ILO (2007);
Towards A Safer and More Productive
Workplace, ILO (2008);
2 Discrimination

2.1. About Discrimination

Every person is entitled to equal opportunity and equal treatment in employment, without discrimination. Employed workers as well as job applicants must not be subject to discrimination. Discrimination includes distinctions based on race, ethnicity, colour, sex, sexual preference, religion, political orientation, disability or HIV/AIDS status that result in unequal treatment. Discrimination may be direct or indirect. It does not have to be intentional. Indirect discrimination refers to practices that appear to be neutral, but result in unequal treatment of people with certain characteristics. Harassment is considered discrimination when it is based on discriminatory grounds. Indonesia has ratified the two core ILO conventions addressing discrimination in respect of employment and occupation: Equal Remuneration Convention No. 100 of 1951 (C100) and Discrimination (Employment and Occupation) Convention No. 111 of 1958 (C111).

Example: During the recruitment process, management should not ask irrelevant personal details about the prospective worker, such as where they or their family come from, their religion, whether they are married, pregnancy status, or whether they have children. Even if this information is only used for light conversation, and it is not intended to be used to discriminate against people with certain characteristics, it may give prospective workers that impression, and it is not appropriate.

LEGAL REFERENCES:
INDONESIAN CONSTITUTION 1945, ART. 28(I) [UNDANG-UNDANG DASAR 1945 REPUBLIK INDONESIA, PASAL 28(I)];
RATIFICATION OF ILO CONVENTION ON EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE (C100), ACT NO. 80 OF 1957 [PERSETUJUAN KONVENSI ILO MENGENAI PENGUPAHAN BAGI LAKI-LAKI DAN WANITA UNTUK PEKERJAAN YANG SAMA NILAINYA (K100), UU NO. 80 TAHUN 1957];
RATIFICATION OF ILO CONVENTION ON DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (C111), ACT NO. 21 OF 1999 [PENGESAHAN KONVENSI ILO MENGENAI DISKRIMINASI SEHUBUNGAN PEKERJAAN DAN JABATAN (K111), UU NO. 21 TAHUN 1999];
MANPOWER ACT, NO. 13 OF 2003, ARTS. 4-6, 153 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 4-6, 153].

2.2. Race, Religion and Political Orientation

A person’s race, colour, ethnicity, religion or political orientation must not be factored into decisions relating to hiring, working conditions, pay, opportunities for promotion, access to training, disciplinary action or termination of employees. The prohibition of discrimination on religious grounds covers religious practices including prayer, dietary and clothing requirements, and religious holy days.

Workers should be free to practice their religion and should not face negative repercussions at work for doing so, as long as this does not disproportionately impact the requirements of the job or operational needs.

Good Practice: Management set up a prayer room in the factory to accommodate workers whose religious practices include praying during working hours, so workers are free to practice their religion at work.

LEGAL REFERENCES:
INDONESIAN CONSTITUTION 1945, ARTS. 28(I), 29 [UNDANG-UNDANG DASAR 1945 REPUBLIK INDONESIA, PASAL 28(I), 29];
RATIFICATION OF ILO CONVENTION ON EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE (C100), ACT NO. 80 OF 1957 [PERSETUJUAN KONVENSI ILO MENGENAI PENGUPAHAN BAGI LAKI-LAKI DAN WANITA UNTUK PEKERJAAN YANG SAMA NILAINYA (K100), UU NO. 80 TAHUN 1957];
RATIFICATION OF ILO CONVENTION ON DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (C111), ACT NO. 21 OF 1999 [PENGESAHAN KONVENSI ILO MENGENAI DISKRIMINASI SEHUBUNGAN PEKERJAAN DAN JABATAN (K111), UU NO. 21 TAHUN 1999];
MANPOWER ACT, NO. 13 OF 2003, ARTS. 4-6, 153 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 4-6, 153].
Men and Women, has the equal right based on the Labour law and Constitution. A person’s sex must not be factored into decisions relating to hiring, working conditions, pay, opportunities for promotion, access to training, or termination. Employers must observe and implement the principle of equality between men and women, and cannot discriminate on the basis of sex, such as:

1. Employers must provide equal remuneration for male and female employees for work of equal value.

2. Employers must not terminate or force employees to resign because they are pregnant, on maternity leave, or based on their marital status.

3. Employers must not require women to undergo pregnancy tests as part of the hiring process or at any time during employment, unless the work presents a recognized significant risk to the health of the woman and child based on consultation with HIPERKES-certified doctors (doctors who are certified in industrial hygiene, ergonomics, occupational safety and health).

Sexual harassment in the workplace is prohibited. Sexual harassment is verbal or physical conduct of a sexual nature affecting the dignity of women or men, which is unwelcome, unreasonable and offensive to the recipient. To constitute sexual harassment in the workplace, employees must perceive that their reaction to the conduct may affect decisions regarding their job, or be a factor in evaluating job performance. Conduct that creates a hostile or inappropriate working environment also can constitute sexual harassment.

Sexual harassment can involve conduct such as:

- Unwelcome touching, hugging or kissing;
- Staring or leering;
- Suggestive comments or jokes;
- Unwanted invitations for sex or persistent request to go out on dates;
- Intrusive questions about another person’s private life or body;
- Insults or taunts of sexual nature;
- Behavior which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

LEGAL REFERENCES:

CRIMINAL CODE, ART. 281 [KITAB UNDANG-UNDANG HUKUM PIDANA, PASAL. 281];

RATIFICATION OF ILO CONVENTION ON EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE (C100), ACT NO. 80 OF 1957 [PERSETUJUAN ILO MENGENAI PENGUPAHAN YANG SAMA BAGI BURUH LAKI-LAKI DAN WANITA UNTUK PEKERJAAN YANG SAMA NILAINYA (C100), UU NO. 80 TAHUN 1957];

RATIFICATION OF ILO CONVENTION ON DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (C111), ACT NO. 21 OF 1999 [PENGESAHAN KONVENSI ILO MENGENAI DISKRIMINASI DALAM PEKERJAAN DAN JABATAN (C111), UU NO. 21 TAHUN 1999];

HUMAN RIGHTS ACT NO. 39 OF 1999, ART. 1 [UU HAK ASASI MANUSIA NO. 39 TAHUN 1999];

MANPOWER ACT NO. 13 OF 2003, ARTS. 5-6, 153 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 5- 6, 153];

MOMT CIRCULAR NO. SE.03/MEN/IV/2011.

Resource Guide:

Guidelines on Sexual Harassment Prevention at the Workplace, Ministry of Manpower and Transmigration (2011);


Better Work Model Policy on Sexual Harassment.
2.4. Disability

Disabled persons are those whose prospects of securing, returning to, retaining and advancing in employment are reduced as a result of a physical, sensory, intellectual or mental impairment. Under Indonesian law, employers must hire at least one disabled person for every 100 employees.

Disabled people who apply for work should not be subject to discrimination based on their disability; they should be evaluated based on their ability to perform the job. Disabled people that are hired must fulfill the requirements and qualification of the job.

Employers must accommodate disabled employees in accordance with the type and extent of their disabilities, including adjusting workplace access, tools and/or personal protective equipment if necessary.

A person’s disability must not be factored into decisions relating to working conditions, pay, opportunities for promotion, access to training, or termination. Disabled employees who undertake workplace training are entitled to receive a certificate of competence.

**Good Practice:** A garment factory searched for and recruited persons with disabilities to comply with their obligations, improve productivity and to signal to the community their stance on equal opportunity in employment. The company coordinated with the Local Social Affairs Office to locate people with disabilities who were interested in finding work. In job advertisements, the company stated “Persons with disabilities are encouraged to apply” to invite and persuade disabled applicants to seek employment with the company.

**Resource Guide:**
- ILO Code of Practice: Managing Disability in the Workplace, ILO (2002);
- Managing Disability in the Workplace: Company Practices, ILO (2010);
- **LEGAL REFERENCES:**
  - DISABLED PERSONS ACT NO. 4 OF 1997 [UU PENYANDANG CACAT NO. 4 TAHUN 1997];
  - MANPOWER ACT NO. 13 OF 2003, ARTS. 5-6, 67, 153(1)(i) [UU KETENAGAKERJAAN, NO. 13 TAHUN 2003, PASAL 5-6, 67, 153(1)(i)];
  - RATIFICATION OF UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES, ACT NO. 19 OF 2011 [PENGESAHAN KONVENSI PBB MENGENAI HAK-HAK PENYANDANG DISABILITAS, UU NO. 19 TAHUN 2011];
  - GOVERNMENT REGULATION ON EFFORTS TO IMPROVE SOCIAL WELFARE OF PEOPLE WITH DISABILITY, NO. 43 OF 1998, ARTS. 26-31 [PERATURAN PEMERINTAH TENTANG PENINGKATAN KESEJAHTERAAN SOSIAL PENYANDANG CACAT NO. 43 TAHUN 1998, PASAL 26-31];
  - MOM DECREE NO. KEP-205/MEN/1999, ARTS. 4, 7, 9 [KEPUTUSAN MENAKER NO. KEP-205/MEN/1999, PASAL 4, 7, 9];
  - MOMT CIRCULAR LETTER NO. 01.KP.01.15.2002 [SURAT EDARAN MENAKERTRANS NO. 01.KP.01.15.2002].
A person’s real or perceived HIV/AIDS status must not be factored into decisions relating to hiring, working conditions, pay, opportunities for promotion, access to training, or termination. Employees with HIV and AIDS should be able to work as long as they are physically fit and are not endangering themselves or others in the workplace.

Employers must take steps to prevent and control HIV/AIDS in the workplace, such as:

- Developing a policy on HIV/AIDS prevention;
- Communicating efforts to prevent and control HIV/AIDS, and educating workers on HIV/AIDS;
- Protect workers with HIV/AIDS from discrimination; and
- Implementing occupational health and safety procedures to prevent and control HIV/AIDS.

Employers must not require workers to undergo HIV/AIDS tests as part of the hiring process or at any time during employment. If voluntary tests are conducted, employers must provide counseling before and after the test.

Resource Guides:
An ILO Code of Practice on HIV/AIDS and the World of Work, ILO (2001);

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ART. 6 (UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 6);
MOMT DECREE NO. KEP.68/MEN/IV/2004, ARTS. 2, 3, 5 (KEPUTUSAN MENAKERTRANS NO. KEP. 68/MEN/IV/2004, PASAL 2, 3, 5);
Forced labour is work exacted under threat of penalty that the worker has not freely consented to perform. Examples of penalties can include restrictions on workers’ movement, threats of violence or deportation, deposits paid by workers, or delayed wages. Confiscation or holding of workers’ personal documents, such as birth certificates, school certificates or national identity cards may also indicate forced labour, as workers may not be free to leave their jobs and find work elsewhere.

Under the Indonesian Constitution, all persons are free to choose their occupation, and entitled to an income, and proper treatment in labour relations.

Indonesia has ratified the two core ILO conventions that aim to suppress forced labour: Forced Labour Convention No.29 of 1930 (C29) and Abolition of Forced Labour Convention No. 105 of 1957 (C105).

Forcing workers to work against their will under threat of penalty can indicate forced labour regardless of whether the involuntary work is performed during regular hours or overtime.

Under Indonesian law, employees must provide written consent to all overtime work.

The company cannot retain original document of its employees without their consent, such as birth certificate, education certificate, Personal ID card. Retaining original personal document against the will or without the consent of the labour is a strong indicator that forced labour maybe taking place, as it prevent the employee from leaving their current job and seeking employment else where.

Example: Normal working hours at a garment factory are from 7am-4pm from Monday to Friday with one hour lunch break. However, during peak season, the supervisors forced workers to sign their consent to work overtime, for an extra four hours, without considering whether the workers wanted to go home. If the workers refused, the supervisors threatened not to extend their non-permanent work agreement. This is a prohibited practice. Workers must freely agree to work overtime and their consent must be documented accurately. The workers cannot be punished because they refused to work overtime.
Freedom of association refers to the rights of workers and employers to create and join organisations that represent them, such as trade unions and employers associations. Workers must be free to choose how they are represented, and employers must not interfere in the process.

Collective bargaining is the process of negotiation between trade unions and employers related to working conditions, terms of employment and other work-related issues, such as union facilities, dispute resolution procedures, and mechanisms for cooperation, communication and consultation. Indonesia has ratified the two core ILO conventions that aim to protect and promote workers’ rights to freedom of association and collective bargaining: Freedom of Association and Protection of the Right to Organise Convention No. 87 of 1948 (C87) and Application of the Principles of the Right to Organise and to Bargain Collectively Convention No. 98 of 1949 (C98).

Workers must be free to form a union, even when there is already one or more unions in the factory. At least ten workers are required to form a union. Workers are free to join or not to join a union. Under Indonesian law, a worker can join only one union at a factory. Unions may not limit their membership based on discriminatory grounds, such as political allegiance, religion, ethnicity or sex.

Unions must give written notice of their establishment to the local government agency responsible for manpower affairs, as designated by the Ministry of Manpower and Transmigration. The notice should include the names of the union’s founders and officials, as well as the union’s constitution and by-laws.

Unions must have a constitution and bylaws, which contain the union’s name, principles and objectives, date of establishment, location, membership and committees, funds, and method of amending the constitution and by-laws.

The functions of unions set forth under Indonesian law include protecting workers, defending their rights and increasing the welfare of workers and their families. To achieve these goals, unions negotiate and enter into collective bargaining agreements, resolve industrial disputes, represent workers and create harmonious industrial relations, and strike in accordance with legal requirements. They also convey workers’ aspirations and complaints to employers.
4.2.1. Union Access

According to Indonesian law, the employer must provide opportunities to union officials and members to carry out union activities during working hours as agreed by both parties or arranged in the collective bargaining agreement. Union officials should have free access to workers at the workplace during breaks and before and after work.

4.2.2. Federations and Confederations

Unions have the right to form and join union federations. A federation is composed of at least 5 unions. Federations have the right to form and join confederations. A confederation is composed of at least 3 federations. A union may only be a member of one federation. A federation may only be a member of one confederation.

Federations and confederations must give written notice of their establishment to the local government agency responsible for manpower affairs, as designated by the Ministry of Manpower and Transmigration. The notice should include the names of the federations/confederations founders and officials, as well as the federations/confederations constitution and by-laws.

4.2.3. Union Dues

Unions should be able to collect dues from their members, either directly or indirectly by requesting the employer to deduct the dues from workers’ wages. In order to request the employer to deduct dues from workers’ wages, the union must submit a list of members seeking to have their dues deducted, the names of the union committee members, the union’s registration number, a copy of the union regulations, and written statements from the workers who would like their wages deducted.
4.3. About Collective Bargaining

One or more registered unions can engage in collective bargaining with an employer, depending on the number of unions in the enterprise and the percentage of workers they represent. Negotiations should be conducted amicably and in good faith, based on the free intention of the parties.

If one or more unions exist, the employer should not undermine them by negotiating directly with elected worker representatives or individual workers, for example, by offering better working conditions to non-unionized workers under individual work agreements.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ART. 116-1132 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 116-1132];

4.4.1. Interference

Freedom of association includes the right to be free from interference in the exercise of the right. Unions should operate free from employer interference when organising themselves, making decisions and conducting their activities.

If there is more than one union in the enterprise, the employer should treat them equally (although rights to collective bargaining vary depending on representative status under Indonesian law). Minority union rights to freedom of association must be respected.

Unequal treatment of unions includes not allowing all unions equal access to space for meetings or for posting notices, or refusing to recognize or meet with the leaders of some unions.

Managerial staff such as human resource managers, finance managers, and personnel managers cannot serve as union officials in workers’ unions.

**Case study:** An employer interferes with workers’ rights to freedom of association if management tries to gain control or undermine the union, for example, by offering bribes to union representatives to withdraw from the union.

LEGAL REFERENCE:
TRADE UNION ACT NO. 21 OF 2000, ARTS. 3, 15, 28 [UU SERIKAT PEKERJA NO. 21 TAHUN 2000, PASAL 3, 15, 28];
MANPOWER ACT NO. 13 OF 2003, ARTS. 1(17), 119, 120(3) [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 1(17), 119, 120(3)];
Discrimination against workers based on their union membership or activities is prohibited. Discrimination occurs if unionists are punished through termination, transfer, demotion, denial of overtime, reduction in wages/benefits, or changes to their conditions of work.

All workers should have an equal opportunity to get a job and to receive equal treatment while at work, without discrimination. Union membership or union activities must not be a consideration factor during hiring decisions.

Termination of a union member must be negotiated with the member’s union. If negotiations fail to result in agreement, the employer can only terminate the worker after receiving a decision from the institution for the settlement of industrial relations disputes.

LEGAL REFERENCE:
TRADE UNION ACT NO. 21 OF 2000, ARTS. 12, 28 [UU SERIKAT PEKERJA NO. 21 TAHUN 2000, PASAL 12, 28];
MANPOWER ACT NO. 13 OF 2003, ARTS. 5, 153(G) [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 5, 153(G)].
A strike is a planned collective action by workers due to a labour dispute in which working time is lost. It can include complete work stoppages, sit-ins, go-slow and overtime bans. Workers have the fundamental right to strike. Strikes should be carried out in a legal, orderly and peaceful fashion, only as a last resort if negotiations fail, which occurs when:

- Unions have requested the employer to negotiate twice in writing within a 14 day period, and the employer was unwilling to do so, or
- The parties reach a deadlock in negotiations, and this is declared by both parties in the negotiation minutes.

The parties may be required to engage in compulsory alternative dispute resolution procedures prior to striking.

Workers must provide at least seven days written notice to the employer and local manpower office stating the starting and ending time for the strike, the location, and the reasons for the strike. The notice should be signed by the chairperson and secretary of the union(s) organizing the strike, or by worker representatives if there is no union involved. With the exception of essential services, employers should not hire workers to replace those on strike (garment production is not considered an essential service based on the Freedom of Association Committee of the ILO Governing Body).

Unless they engaged in serious misconduct or serious acts, employers should not punish those who participate in strikes. They must not deduct more wages than those corresponding to the days lost during a strike, terminate workers, fail to renew workers’ work agreements, reduce benefits or seniority, or impose heavier workloads. Peaceful strikes should not be broken up by security forces or the police.

LEGAL REFERENCES:
5.1. Minimum Wages

Minimum wages is the lowest minimum wages that consist of basic wage and fixed allowances.

Minimum wage rates differ across groups of workers, sectors of economic activity and by geographical location.

Provincial and District Wage Councils provide suggestions to Provincial Governors in order to formulate regulations specifying the minimum wage. Organizations of employers and workers are represented on the councils.

Employers who are not financially able to pay minimum wages can apply for approval for postponement from the Provincial Governor.

The request must be based upon a written agreement between employers and workers or unions. One union or a coalition of unions representing more than 50% of the workers in the factory can negotiate on behalf of workers, and agree for the postponement to occur.

Employers must include with their request a financial report of the company for the previous two years, and production plans for the next two years.

The request for a postponement must be made at least 10 days before a new minimum wage rate is set to take effect.

The Governor can agree for a factory to continue to pay the previous year’s minimum wage rate for up to 12 months.

The Governor has one month to agree or refuse the request.
5.1.2. Apprentices

Apprentices are entitled to receive from their employers:

- Social security for workplace accidents (JAMSOSTEK)
- Pocket money and/or transport money
- A certificate of completion

*Good Practice:* Although there is no specific minimum wage established for apprentices, employers should pay apprentices a reasonable amount to cover transport and meals, to compensate them for the products or services they provide.

**LEGAL REFERENCES:**
- Manpower Act No. 13 of 2003, Article 22 (UU Ketenagakerjaan No. 13 Tahun 2003, Pasal 22);

5.1.3. Non-permanent work agreement

Employers must pay the correct district minimum wage for ordinary hours of work to non-permanent workers, including those hired for a specified period of time, or to complete certain job.

**LEGAL REFERENCES:**
- Manpower Act No. 13 of 2003, Articles 56, 88-90 (UU Ketenagakerjaan No. 13 Tahun 2003, Pasal 56, 88-90);

5.1.4. Probation

Only permanent work agreements may include a probationary period, which cannot exceed three months. Probationary workers must not receive less than the minimum wage.

**LEGAL REFERENCE:**
- Manpower Act No. 13 of 2003, Article 60 (UU Ketenagakerjaan No. 13 Tahun 2003, Pasal 60);

5.1.5. Piece Rate

Workers who are paid based on piece rates must be paid at least minimum wage for ordinary hours work, even if their actual piece-rate earnings are below minimum wage. If their actual piece-rate earnings are higher than minimum wage, then they should be paid the higher amount.

*Example:* A factory in Semarang paid a worker IDR 200 per piece to trim thread ends on jeans. In February, she made a total of 4,000 pieces during regular working hours. Therefore, based on her piece rate pay, she earned IDR 800,000 for the month. Since the monthly minimum wage in Semarang is IDR 941,600, she should receive this higher amount, because she must be paid at least minimum wage. In March, she made a total of 5,000 pieces during regular working hours. Therefore, she should receive IDR 1,000,000 for that month, because her piece rate earnings exceeded minimum wage.

**LEGAL REFERENCES:**
- Manpower Act No. 13 of 2003, Article 90 (UU Ketenagakerjaan No. 13 Tahun 2003, Pasal 90);
Workers who work overtime on ordinary work days should be paid 1.5 times the hourly pay for the first hour of overtime worked, and 2 times the hourly pay for each additional hour worked.

Hourly wages are calculated by multiplying 1/173 times the monthly wage.

Where monthly wages are comprised of basic wages and fixed allowances, 100% of the monthly wage is included when calculating overtime wages. If monthly wages also include non-fixed allowances and the basic wage plus the fixed allowance is less than 75% of the total wage, the monthly wage used to calculate overtime payments is 75% of total wages.

Workers paid by piece rate also should be paid overtime rates. The monthly wage for piece rate workers is determined based on the average wage paid over the prior 12 months.

Employers must provide meals and drinks of at least 1,400 calories to workers who work overtime for three hours or more.

**Example 1:** Hani is paid a basic wage of IDR 750,000 plus a fixed allowance of IDR 250,000, so her monthly wage is IDR 1,000,000. Hani’s hourly wage is 5780.35 (1/173 times IDR 1,000,000). If Hani works two hours of overtime on a regular workday, her correct overtime pay is:

\[
\text{IDR } 8,670.52 \ (\text{IDR } 5,780.35 \times 1.5 \ \text{for the first hour of overtime}) \\
+ \text{IDR } 11,560.69 \ (\text{IDR } 5,780.35 \times 2 \ \text{for the second hour of overtime}) \\
= \text{IDR } 20,231.21 \ (\text{total overtime pay for the two hours of overtime})
\]

**Example 2:** Soni is paid a basic wage of IDR 600,000, a fixed allowance of IDR 100,000, and an unfixed allowance of IDR 300,000, therefore his total monthly wage is IDR 1,000,000. Soni’s hourly wage is Rp 4,335.26 (1/173 times IDR 750,000, which is 75% of his monthly wages because his basic wage plus fixed allowance is 70% of the total monthly wages). If Soni works two hours of overtime on a regular workday, his correct overtime pay is:

\[
\text{IDR } 6,502.89 \ (\text{IDR } 4,335.26 \times 1.5 \ \text{for the first hour of overtime}) \\
+ \text{IDR } 8,670.52 \ (\text{IDR } 4,335.26 \times 2 \ \text{for the second hour of overtime}) \\
= \text{IDR } 15,173.41 \ (\text{total overtime pay for the two hours of overtime})
\]
Employers also must pay the following correct rate for all overtime hours worked on weekly rest days and national holidays, as follows:

- If 40 hours of regular work per week is implemented in six workdays:

  Overtime on weekly rest days or national holidays **but not on** the shortest working day of the week

<table>
<thead>
<tr>
<th>Hours of overtime worked</th>
<th>Overtime rate (times regular hourly wages)</th>
<th>Hours of overtime worked</th>
<th>Overtime rate (times regular hourly wages)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; – 7&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>2 x</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; – 5&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>2 x</td>
</tr>
<tr>
<td>8&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>3 x</td>
<td>6&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>3x</td>
</tr>
<tr>
<td>9&lt;sup&gt;th&lt;/sup&gt; – 10&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>4 x</td>
<td>7&lt;sup&gt;th&lt;/sup&gt; – 8&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>4 x</td>
</tr>
</tbody>
</table>

- If 40 hours of regular work per week is implemented in five workdays:

<table>
<thead>
<tr>
<th>Hour worked overtime</th>
<th>Overtime pay (times normal rate of pay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; – 8&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>2 x</td>
</tr>
<tr>
<td>9&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>3 x</td>
</tr>
<tr>
<td>10&lt;sup&gt;th&lt;/sup&gt; – 11&lt;sup&gt;th&lt;/sup&gt; hour</td>
<td>4 x</td>
</tr>
</tbody>
</table>
All workers and their families (including spouses and up to three children below the age of 21 years who are not married and not working) are entitled to social security. They are to be paid to compensate for lost and/or reduced earnings as a result of accidents, illness, pregnancy, old age and death.

Enterprises that employ ten or more employees, or that pay at least IDR 1,000,000 in wages are obligated to have a social security program for their workers.

Employers must register him/herself and the workers to be a member of JAMSOSTEK, that includes social security for healthcare, work accident, old age, pension, and death. JAMSOSTEK will provide a registration form that must be filled within 30 days.

Employers can choose whether to use JAMSOSTEK or another service provider for healthcare, as long as they provide better services than JAMSOSTEK.

Employers must keep records of workers and their families, payroll including any amendments, and all workplace accidents in the enterprise.

Within 7 days after registration and submission of the first contribution, JAMSOSTEK will provide the enterprises with a membership certificate, and each worker will be given a membership card and a healthcare card.

The JAMSOSTEK contributions include:

- Work accidents: 0.24% of monthly wages for Group I that is businesses which includes sewing and other garment industries, or 0.89% of monthly wages for Group III that businesses that includes tricot factories (t-shirts, socks, hosiery and knitting factories) and other textile industries; to be paid by the employer;
- Old age fund: 5.7% of monthly wages, of which 3.7% is paid by the employer and 2% is paid by the workers
- Death: 0.3% of monthly wages paid by the employer
- Healthcare: 6% of monthly wages (up to a maximum of 6% of IDR 1,000,000) for workers who have families or 3% of monthly wages (up to a maximum of 3% of IDR 1,000,000) for workers who do not have families; to be paid by the employer.
5.3.3. Workplace Accidents

A work accident is one that occurs in connection with employment, and includes diseases arising from the workplace as well as accidents that occur during travel to and from work.

Workers who suffer an occupational accident are entitled to compensation for transportation costs, costs of treatment, and rehabilitation costs as well as payments to cover temporary incapacity to work, partial or total disability, including mental and physical disabilities, and death benefits.

Employers must report accidents within 48 hours of their occurrence to the Local Manpower Office and JAMSOSTEK office.

Compensation for temporary incapacity to work should be paid first by the employer and will be reimbursed by JAMSOSTEK amounting to:

- 100% of monthly wages for the first four months of work missed;
- 75% of monthly wages for the next four months of work missed; and
- 50% of monthly wages for the next following months of work missed.

LEGAL REFERENCES:

LABOUR SOCIAL SECURITY ACT 3 OF 1992, ARTS. 6, 8-11 [UU JAMINAN SOSIAL TENAGA KERJA, NO. 3 TAHUN 1992, PASAL 6, 8-11;]


5.3.4. Death Insurance

Family members of workers who die due to work related accidents are entitled to death insurance benefits,

- Death insurance amounting to IDR 10,000,000;
- Periodic death insurance amounting to IDR 200,000 per month for 24 months; and
- Funeral expenses amounting to IDR 2,000,000.

The amount of compensation is updated in Government Regulations.

LEGAL REFERENCES:


GOVERNMENT REGULATION ON WORKERS SOCIAL SECURITY PROGRAM NO. 14 OF 1993, ARTS. 12-21 [PERATURAN PEMERINTAH TENTANG PENYELENGGARAAN PROGRAM JAMINAN SOSIAL TENAGA KERJA NO. 14 TAHUN 1993, PASAL 12-21]


5.3.5. Old Age Pension Funds

Worker, who reach the age of 55, stated permanently totally disabled by a doctor, are entitled to receive Old Age Insurance that can be paid either periodically, lump sum or both lump sum and periodically. When a worker dies, the old age insurance is paid to the workers’ spouse or children.

LEGAL REFERENCES:


5.3.6. Health Insurance

Employers that have their own healthcare programs for the workers and their family with benefits that are better than the basic healthcare package under JAMSOSTEK do not have to participate in the JAMSOSTEK program. Workers must be given a healthcare cards and information about the healthcare package benefits. Healthcare service must be accessible to workers, their spouses and up to three children, and it the services should include:

- Initial treatment, advanced care, hospitalization, prenatal care and pregnancy assistance, diagnostic tests, specialist services; and emergency services.

Diagnostic tests include:
- Laboratory;
- Radiology;
- Electro Encephalography (EEG);
- Electro Cardiography (ECG);
- Ultra Sonography (USG); and
- Computerised Tomography Scanning (CT Scanning);
- and other types of diagnostic test.

Special services include (the premium coverage is regulated by a Ministerial Regulation):
- Eye glasses, prosthetic teeth, hearing aids, prosthetic limbs; and prosthetic eyes.

JAMSOSTEK provides medical treatment assistance to workers and their family who require hemodialysis, heart surgery, cancer treatment, and HIV/AIDS treatment.

Starting from 1 January 2014, all JAMSOSTEK Health Care (JPK JAMSOSTEK) participants are transferred to BPJS Health Care (BPJS Kesehatan). Employers that have their own healthcare programs for the workers and their family should register them to BPJS Kesehatan starting from 1 January 2015.

5.3.7. Religious Holiday Allowance

Employers must pay workers who they have employed continuously for 12 months or more an additional month’s wage at least one week before their religious holiday. Workers with three to 12 months of continuous service should be paid proportionally based on the number of months of continuous work divide by 12 and multiply by total one month salary.

Religious holidays include Idul Fitri for Islamic workers, Christmas Day for Catholic and Protestant workers, Saka New Year’s Day of Quiet for Hindu workers, and Vesak Day for Buddhist workers.
The manner in which workers are paid should be agreed on in work agreements. Full wages normally should be paid in cash at the workplace, unless the work agreement states otherwise, for example, payment may be made via bank transfer. Payments in the form of drugs or liquor are prohibited.

If wages are comprised of basic wages and fixed allowances, the basic wage must make up at least 75% of the total wage (basic wages + fixed allowances).

The employer should keep only one payroll, which includes the total regular hours worked, total overtime hours worked, and any other period of time for which premium pay is required.

Each worker should be provided with clear individual wage statements including wage deductions.

**LEGAL REFERENCES:**
- **MANPOWER ACT NO. 13 OF 2003, ARTS. 54(1)(e), 94** [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 54(1)(e), 94];
- **GOVERNMENT REGULATION ON WAGE PROTECTION NO. 8 OF 1981, ARTS. 10, 12, 16** [PERATURAN PEMERINTAH TENTANG PERLINDUNGAN UPAH NO. 8 TAHUN 1981, PASAL 10, 12, 16];

**LEGAL REFERENCES:**
- **GOVERNMENT REGULATION ON WAGE PROTECTION NO. 8 OF 1981, ARTS. 10, 17, 19** [PERATURAN PEMERINTAH TENTANG PERLINDUNGAN UPAH NO. 8 TAHUN 1981, PASAL 10, 17, 19]

5.4.1. Frequency of Payment

Wages should be paid on time and at least once per month, although they may be paid more frequently on a certain date as agreed in the work agreement.

Employers who pay wages late to the workers are subject to penalties, as follows:

- For delay of wage payment from the fourth day to the eighth day since pay day, the wage payment must include an additional 5% for each day of delay;
- For delay of wage payment from the ninth day since pay day, the wage payment must include an additional 1% for each day of delay;
- This additional penalty should not exceed 50% of wages that should be paid;
- If the wages are still not paid up to one month, the employer is also obliged to pay additional wages interest based on the bank’s interest rate applied to the enterprise’s credit loans.
5.4.2. Place of Payment

Employers must pay wages at the place of employment where the worker usually works, at the company office, or by bank transfer, unless otherwise stated in the work agreement or company regulations.

Wages must be paid directly to workers, however a third party can receive wages on behalf of a worker if the worker has provided a power of attorney.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ART. 54(1)(e) [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 54(1)(e)];
GOVERNMENT REGULATION ON WAGE PROTECTION NO. 8 OF 1981, ARTS. 10, 16 [PERATURAN PEMERINTAH TENTANG PERLINDUNGAN UPAH NO. 8 TAHUN 1981, PASAL 10, 16]

5.4.3. Restrictions and Deductions

Employers must not restrict workers freedom to use their wages as they choose, such as pressuring workers to buy from the enterprise’s store or to purchase other services offered by the employer, such as meals or housing.

The value of in-kind payments, such as the cost of meals, housing or childcare may be deducted directly from workers’ wages if the workers agree. However, total in-kind payments may not exceed 25% of the workers’ wage to ensure that workers have enough to meet their subsistence needs, and those of their family.

The employer should not make deductions from wages that are not authorized by law, outlined in company regulations or collective bargaining agreement or work agreement. Employers must properly inform workers about their wage payments and deductions.

Workers’ wage deductions for lost or damaged goods belonging to the employer cannot exceed 50% of the total monthly wage of the employee.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ART. 88(3)(g) [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 88(3)(g)];
5.5. Paid Leave

Leave arrangements, such as annual leave, sick leave, personal leave, parental leave, long service leave, leave to fulfill certain obligations, and collective leaves should be specified in work agreements, company regulations or collective agreements.

*Note: Chapter 8 on Working Time provides information regarding leave types and requirements.*

5.5.1. Public Holidays

Workers are not obligated to work on public holidays. They must be paid, even though they do not work. Every year, a Joint Ministerial Decree of official public holidays is released. Employers can require workers to work on public holidays if the nature of the work requires that it be performed continuously, only if workers agree to the holiday work.

5.5.2. Work Stoppages

Arrangements for payment during work stoppages may be specified in work agreements, company regulations or collective bargaining agreements. If workers are willing to do the work that they have been hired to perform but employers do not provide the work due to problems or obstacles that employers should be able to avoid, then the employers is still obligated to pay wages to the workers.
All factory workers, including those working at the factory and offsite, should have a work agreement written in Bahasa Indonesia and signed by both the employer and the worker. A work agreement must state the terms and conditions of employment, including:

- Enterprise’s name, address, and type of business;
- Worker’s name, sex, age, and home address;
- Occupation and type of work;
- Duty stations or workplace;
- Amount of wages and method of payment;
- Rights and obligations of the worker and the employer;
- Starting date and duration of the contract;
- Place and date of the work agreement; and
- Signatures of both parties.

The provisions in a work agreement must be at least as favorable to the worker as the labour law and regulations, the company regulations or the collective bargaining agreement. Oral work agreements are permitted for permanent work, but the employer must prepare a letter of appointment for the workers that includes:

- Worker’s name and address;
- Starting date of work;
- Type of work; and
- Amount of wages.

Enterprises with ten or more workers must establish company regulations, which take effect after they are approved by:

- Head of District Manpower Office at regency/city, for enterprises that are located in one regency/city;
- Head of Provincial Manpower Office for enterprises that are located in more than one regency/city in one province;
- Director General of Industrial Relations and Social Security of the Ministry of Manpower and Transmigration, for enterprises that are located in more than one province.

Company regulations should be formulated in consultation with worker representatives, and should specify the rights and obligations of the employer and the workers, working conditions, disciplinary provisions and rules of conduct, and the period of their validity.

Company regulations cannot conflict with or provide less protection than the prevailing laws and regulations.

Companies are not required to have internal regulations if there is already a Collective Bargaining Agreement in place.
6.2.1. Probationary Period

Employers can place new permanent workers on probation for no longer than three months. During the probationary period, workers cannot be paid less than the minimum wage.

While non-permanent workers cannot be subject to probationary period by the employers.

LEGAL REFERENCE:
MANPOWER ACT NO. 13 OF 2003, ARTS. 58, 60.

6.2.2. Foreign Workers

Employers who employ foreign workers must prepare a foreign workers recruitment plan (Rencana Penggunaan Tenaga Kerja Asing – RPTKA) and endorsed by:

- Director General of Workers Placement and Development, Ministry of Manpower and Transmigration, if employer is planning to recruit 50 foreign workers or more;

- Director of the Foreign Workers Management, Directorate General of Workers Placement and Development, Ministry of Manpower and Transmigration, if the employer is planning to recruit less than 50 foreign workers.

The foreign workers recruitment plan (RPTKA) endorsement is valid for a period up to 5 years and can be renewed. Renewing the foreign workers recruitment plan (RPTKA) can be requested to:

- The Minister of Manpower and Transmigration, if the workplace is located across provinces and there are changes of position, location, number of foreign workers and/or nationality in the recruitment plan; or

- The Head of the Provincial Manpower Office, if the workplace is located in one province and there is no change in position and number of foreign workers.

Once the foreign workers recruitment plan (RPTKA) has been endorsed, the foreign workers recruitment permit (Izin Memperkerjakan Tenaga Kerja Asing – IMTA) can be processed and issued by the Director of the Foreign Workers Management.

The foreign workers recruitment permit (IMTA) is valid for a period up to 1 year and can be renewed. Renewing the foreign workers recruitment permit (IMTA) can be requested to the Director of the Foreign Workers Management or the Provincial Governor or the Head of District (Regent or Mayor). The foreign workers must have a specified position and period of employment. The employer must appoint an Indonesian counterpart to work with the foreign worker, to ensure the transfer of skills from the foreign worker to the counterpart. Foreign workers are not permitted to occupy several positions, namely:

- Personnel Director
- Industrial Relation Manager
- Human Resource Manager
- Personnel Development Supervisor
- Personnel Recruitment Supervisor
- Personnel Placement Supervisor
- Employee Career Development Supervisor
- Personnel Declare Administrator
- Chief Executive Officer
- Personnel and Careers Specialist
- Personnel Specialist
- Career Advisor
- Job Advisor
- Job Advisor and Counseling
- Employee Mediator
- Job Training Administrator
- Job Interviewer
- Job Analyst
- Occupational Safety Specialist

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ARTS. 42-48;
MOMT DECREE NO. 40 OF 2012;
MOMT REGULATION NO. PER.02/MEN/III/2008.
6.2.3. Recruitment Agent Fees

Government agencies for job placement are prohibited from charging fees to workers or employers directly or indirectly.

Private agencies for job placement can collect fees from employers and employees only for the following positions with earnings at least 3 times the district minimum wage: managerial, supervisors, operators and other professional positions that requires an undergraduate degree with professional education.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ARTS. 35-38;
MOMT DECREE NO. KEP.230/MEN/2003

6.2.4. Non-Permanent Workers

Non-permanent work agreements (for a specified time) can only be used for four types of work:

1. To be performed and completed at once or temporary by nature;
2. Estimated time to be completed is not too long and no longer than 3 years;
3. Dependent on season; or
4. Related to a new product, a new activity or an additional product that is still in the experimental stage or try-out phase.

The garment industry can be classified as an industry that may depend on season or relates to manufacturing new product, therefore garment enterprises may recruit workers under a non-permanent work agreements, if the conditions applies. The initial non-permanent work agreement can be made for up to two years and can only be extended once for up to one year. If the employer wishes to continue employing the worker at that point, the worker must be employed under a permanent work agreement. Employers who wish to extend a worker’s non-permanent work agreement must inform the worker in writing no later than seven days before the non-permanent work agreement expires.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ARTS. 56-59 AND EXPLANATORY NOTES;

6.2.5. Outsourcing

An enterprise may only outsource (subcontract) part of its work to another enterprise under a written agreement, if the work is:

• Done separately from the main business activity;
• Undertaken under either a direct or an indirect order from the party commissioning the work;
• An entirely auxiliary activity that is not related to the core business activity of the factory; and
• Not directly inhibiting the production process.

Examples of auxiliary business activities in the garment industry are cleaning and maintenance services, catering services, security services, and transportation services. Outsourcing enterprise must protect workers by either:

• Including a Transfer Undertaking Protection of Employment (“TUPE”) provision in the outsourced workers’ contracts, in which case the workers may be employed under non-permanent work agreements.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ARTS. 64-66 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 64-66];
CIRCULAR LETTER OF MINISTRY OF MANPOWER AND TRANSMIGRATION NO. B.31/PHIJSK/I/2012 [SURAT EDARAN DIREKTUR JENDERAL PEMBINAAN HUBUNGAN INDUSTRIAL DAN JAMINAN SOSIAL TENAGA KERJA KEMENAKERTRANS NO. B.31/PHIJSK/I/2012].
6.3.1. Valid Reasons to Terminate

Termination of employment is ending an employment relationship because of a certain reason that results to ending the rights and obligations of the worker and the employers. An employer may terminate a worker if:

- The worker violates the provisions that are specified under work agreement and/or company regulations or collective bargaining agreement and the worker has been given three warning letters in a row, each issued within six months of the previous warning;
- The employer change in the status of the enterprise, merger, fusion, or change in ownership and the employer is not willing to continue the workers’ employment;
- The enterprise has to be closed down due to continual losses for 2 (two) years consecutively or force majeure;
- The enterprise goes bankrupt;
- The worker dies;
- The workers enter pension age;
- The worker has been absent from work for 5 (five) workdays or more consecutively without submitting to the entrepreneur a written explanation supplemented with valid evidence and the entrepreneur has properly summoned him or her twice in writing; or
- The worker had committed a serious crime and the criminal court judge verdict stated guilty and final.

A worker may file an official request to the institution for the settlement of industrial relations disputes to terminate the worker’s employment relationship with the employer if the employer:

- Battered, rude, humiliated or intimidated the worker;
- Persuaded and/or ordered the worker to commit acts that against statutory laws and regulations;
- Not paid wages at a prescribed time for three months consecutively or more;

LEGAL REFERENCES:
- MANPOWER ACT NO. 13 OF 2003, ARTS. 161-172 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 161-172];

6.3.2. Invalid Reasons to Terminate

An employer may not terminate a worker for invalid reasons, which include:

The worker is absent from work because of illness as confirmed by a written statement from the doctor provided that it is for a period of longer than 12 (twelve) months consecutively;

The worker is absent from work because he or she is fulfilling his or her obligations to the State in accordance with the prevailing laws and regulations;

The worker is absent from work because he or she is practicing what is required by his or her religion.

The worker is absent from work because he or she is getting married;

The worker is absent from work because she is pregnant, giving birth, having a miscarriage, or breast-feeding her baby;

The worker is related by blood and or through marriage to another worker within the enterprise unless so required in the collective bargaining agreement or the company regulations;

The worker establishes, becomes a member of and or an official of a trade union; the worker carries out trade union activities outside working hours, or during working hours with approval from the entrepreneur, or according to that which has been stipulated in the work agreement, or the company regulations, or the collective bargaining agreement;
6.3.3. Negotiations

Workers must be given opportunities to defend themselves before they are terminated. The employer should make all efforts to avoid termination.

The employer and the worker together with the trade union should negotiate the termination to make effort not to have the termination.

If the negotiations fail, the employer must obtain permission from the Industrial Relations Dispute Settlement Institution in order to terminate the worker. Permission is not required for workers on probation if the condition has been stipulated in writing, if the worker has requested to resign with no indication of being pressured or intimidated by the employers, when a non-permanent work agreement expires for the first time, if the worker has reached retirement age, or the worker has died.

Employers must either reinstate or compensate workers who are found to have been unjustly terminated.

Employers who wish to reduce the size of the workforce due to changes in operations must first attempt to negotiate the layoffs with the workers and/or trade union. If the negotiations fail, either the employer or the trade union can file the dispute to the institution for the settlement of industrial relations disputes.

### Severance and Service Reward Pay

The amount of severance pay and reward for service pay increases based on the number of years a person has worked at an enterprise.

The worker’s monthly wage is calculated by adding the basic wage and all fixed allowances.

**Severance Pay**

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Amount of Severance Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 year</td>
<td>1 months’ wage</td>
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<tr>
<td>1 year or more but less than 2 years</td>
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<tr>
<td>7 years or more but less than 8 years</td>
<td>8 months’ wages</td>
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<tr>
<td>8 years or more</td>
<td>9 months’ wages</td>
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**Service Reward Pay**

<table>
<thead>
<tr>
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<th>Amount of Service Reward Pay</th>
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<tbody>
<tr>
<td>Less than 3 years</td>
<td></td>
</tr>
<tr>
<td>3 years or more but less than 6 years</td>
<td>2 months’ wages</td>
</tr>
<tr>
<td>6 years or more but less than 9 years</td>
<td>3 months’ wages</td>
</tr>
<tr>
<td>9 years or more but less than 12 years</td>
<td>4 months’ wages</td>
</tr>
<tr>
<td>12 years or more but less than 15 years</td>
<td>5 months’ wages</td>
</tr>
<tr>
<td>15 years or more but less than 18 years</td>
<td>6 months’ wages</td>
</tr>
<tr>
<td>18 years or more but less than 21 years</td>
<td>7 months’ wages</td>
</tr>
<tr>
<td>21 years or more but less than 24 years</td>
<td>8 months’ wages</td>
</tr>
</tbody>
</table>
If workers violate provisions of their work agreement, company regulations or collective bargaining agreement, employers may discipline workers through warnings and demotions, in proportion to the workers’ violation. Employers may terminate a worker’s employment after issuing three warnings (see Sub-chapter 6.3.1. About Termination of Employment).

Employers must resolve grievances and disputes in compliance with legal requirements. Where there is a dispute between an employer and a worker, the employer must first enter bipartite negotiations in good faith with the worker and/or with their union representative. If the parties fail to reach agreement, the dispute can be addressed to the institution for the settlement of industrial relations disputes.

Supervisors must not use sanctions that are disproportionate to the workers’ behavior, and may not bully, harass or subject workers to humiliating treatment. They should not hit or push workers, or throw things at them. Restricting access to food, water or toilets; threatening or shouting at workers; or publicly scolding workers in a degrading manner also are inappropriate.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ARTS. 86, 136 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 86, 136];
INDUSTRIAL RELATIONS DISPUTE SETTLEMENT ACT NO. 2 OF 2004 [UU PENYELESAIAN PERSELISIHAN HUBUNGAN INDUSTRIAL NO. 2 TAHUN 2004];
MOMT REGULATION NO. PER.31/MEN/XII/2008 [PERATURAN MENAKERTRANS NO. PER.31/MEN/XII/2008].
7.1. OSH Management Systems

Occupational Safety and Health (OSH) Management System includes organizational structure, planning, responsibility, implementation, procedures, processes and resources that are required for developing, implementing, achieving, reviewing and maintaining the safety and health policies in order to control the risks associated with activities working to establish a workplace that is safe, efficient and productive.

Enterprise that employs 100 people or more and/or having potential danger posed by the characteristics of the material process of production that can lead to accidents such as explosions, fires, pollution and work related diseases are required to apply OSH Management System.

Initial steps to implement SMK3 is to demonstrate the commitment and establish an OSH policy, which is a written statement signed by the employer or management that includes the overall vision and goals, commitment and determination implement OSH, the framework and work program that includes the enterprise’s general and/or operational activities.

OSH policy is made through a process of consultation between management and workers representatives who then must be explained and disseminated to all workers, suppliers and customers. OSH policy is dynamic and will always be reviewed in order to improve the OSH performance.

OSH Committee

Enterprises that are required to establish an OSH Committee are:

- Enterprises that employ 100 people or more; or
- Enterprises that employ less than 100 people but using materials, processing and having installations that have a high risk of impending explosion, fire, poisoning and radioactive radiation.

The OSH Committee consists of both workers and management representatives, and responsible to monitor and implement the OSH policy.

The head of the OSH Committee is required to be a high level management representative. The OSH Committee Secretary must be a certified General OSH expert. In order to be appointed, he or she must undertake a two week General OSH training course organized by the Ministry of Manpower and Transmigration and receive an appointment letter from the Ministry.

The OSH Committee must submit a report on the activities of the OSH committee to Local Manpower Office addressed to the Minister of Manpower and Transmigration every 3 months.

Case Study: An OSH Committee was established at a garment factory. The General Manager felt that he was too busy to be involved, so he appointed the Compliance Officer who was a certified OSH General Expert as head of the committee. This is not permitted practice. The General Manager or a high level manager should take responsibility as Head of the OSH Committee and the Compliance Officer who is a certified OSH General Expert should be the OSH Committee Secretary.
Employers must obtain operator licenses from the Ministry of Manpower and Transmigration for certain types of machinery in the workplace, including boilers, pressured vessels, power generator and production machineries, and lifting and transporting instruments.

Employers must also ensure that lighting rod installations and all electrical installations at the workplace are properly installed and certified against national standard.

Legal references:
- MOMT Regulation on Pressured Vessels No. PER.01/MEN/1982
- MOM Regulation on Power Generator and Production Machineries No. PER.04/MEN/1985
- MOM Regulation on the Qualifications and Requirements of a Boiler Operator and No. PER.01/MEN/1988
- MOMT Regulation on Operator and Officer for Lifting and Transporting Instruments No. PER.09/MEN/VII/2010

Garment enterprises are considered to have a medium level of potential hazards and are required to have an OSH Chemical Expert and/or OSH Chemical Officer that is determined by the Ministry of Manpower and Transmigration after assessing the quantity of chemical and hazardous substances that are being used and stored.

The OSH Chemical Expert/Officer is trained and appointed by the Ministry of Manpower and Transmigration to perform his/her duties in an enterprise that have significant chemical use, for example garment enterprises that have a laundry or printing unit.

Chemicals and hazardous substances must be properly labeled and stored. Employers are required to keep an inventory of chemicals and hazardous substances and submit it to the Ministry. They also must keep Material Safety Data Sheets (MSDS) for all chemicals and hazardous substances in a location that is known and accessible to both workers and supervisors.

Employers must also train workers how to safely use, store and dispose of chemicals.

Employers must provide adequate washing facilities and cleansing materials, including shower and eye washing for workers in case of exposed to chemicals or hazardous substances.

Legal references:
- MOM Decree on Control of Hazardous Chemicals in the Workplace No. KEP.187/MEN/1999, Arts. 2-9, 14-20
- MOM Regulation on First Aid at the Workplace No. PER.15/VIII/2008, Art. 8(3)
7.3. Worker Protection

Employers must provide personal protective equipment (PPE) at no cost to workers to protect them from workplace hazards such as chemicals, noise, air pollution, sharp objects, wet processes, eye injuries or burns.

They also must train workers how to use the PPE, and put up notices reminding workers of their obligations to use it at the workplace. Frequently used items including materials, tools and switches must be within easy reach of workers, in accordance with ergonomic principles.

Workers who are required to sit at his/her job should be provided with seating that is suited to their body size, comfortable, facilitate movement and have a backrest. Workers who are required to stand at his/her job should be provided with seating to rest when needed. Employers should take measures to avoid heavy lifting by workers, for example, by providing trolleys or carts.

Employers must ensure that guards are installed on potentially dangerous moving parts of machines, for example needle guards, pulley guards and eye guards. Electric wires must be properly grounded and well maintained.

If workers believe they face an imminent and serious danger to life or health, they may refuse to work, and they should not be punished for doing so. Example: Rubber mats are useful under electric panel boxes to protect workers from current leakages and short circuits.

Case Study: Garment workers in a spot cleaning unit were using stain remover containing acetone and other hazardous chemicals. They were provided masks, but the masks were designed to reduce dust inhalation and passed harmful chemicals over their faces instead. The OSH Committee assessed the condition and recommends improving the ventilation to reduce the level of chemicals in the work area, replaced workers’ masks with proper respiratory masks equipped with an appropriate filter, and also provided gloves and safety goggles to the workers.

LEGAL REFERENCES:
- WORK SAFETY ACT NO. 1 OF 1970, ARTS. 3, 9, 12-14 [UU KESELAMATAN KERJA NO. 1 TAHUN 1970, PASAL 3, 9, 12-14];
- MANPOWER ACT NO. 13 OF 2003, ART. 86;
- WORK SAFETY ACT NO. 1 OF 1970, ART. 3 [UU KESELAMATAN KERJA NO. 1 TAHUN 1970, PASAL 3];
- MOH DECREE ON HEALTH REQUIREMENTS FOR WORKPLACE ENVIRONMENT IN OFFICES AND INDUSTRY NO. 1405/MENKES/SK/XI/2002, APPENDIX 2 (VI, XI) [KEPUTUSAN MENKES TENTANG PERSyarATAN KESEHATAN LINGKUNGAN KERJA PERKANTORAN DAN INDUSTRI NO. 1405/MENKES/SK/XI/2002];

7.4. Working Environment

Employers must ensure that workplaces are comfortable and acceptable for workers, by monitoring and controlling appropriate levels of temperature, humidity, ventilation, noise and lighting, as regulated by the national labour law and other related regulations.

Working conditions should be assessed by a certified Industrial Hygiene, Ergonomics, Occupational Safety and Health (HIPERKES) Inspector from the Ministry of Manpower and Transmigration.

LEGAL REFERENCES:
- WORK SAFETY ACT NO. 1 OF 1970, ART. 3 [UU KESELAMATAN KERJA NO. 1 TAHUN 1970, PASAL 3];
- MOH DECREE ON HEALTH REQUIREMENTS FOR WORKPLACE ENVIRONMENT IN OFFICES AND INDUSTRY NO. 1405/MENKES/SK/XI/2002, APPENDIX 2 (VI, XI) [KEPUTUSAN MENKES TENTANG PERSyarATAN KESEHATAN LINGKUNGAN KERJA PERKANTORAN DAN INDUSTRI NO. 1405/MENKES/SK/XI/2002];
7.5.1. Medical Checks

Employers should arrange for pre-employment, periodic and special medical checks at no cost to workers by a certified Industrial Hygiene, Ergonomics, Occupational Safety and Health (HIPERKES) doctor.

Pre-employment medical examinations are conducted to ensure that workers are physically and mentally fit for their jobs and are not suffering from any contagious diseases that could affect other workers.

Periodic medical examinations are performed at least once a year.

Special Medical examinations are provided to certain categories of workers performing specific types of work with certain health risk. They are also provided to workers with complaints about a particular health problem.

LEGAL REFERENCES:
WORK SAFETY ACT NO. 1 OF 1970, ARTS. 2, 8 [UU KESELAMATAN KERJA NO. 1 TAHUN 1970, PASAL 2, 8];
MOMT REGULATION ON WORKERS HEALTH EXAMINATION IN THE IMPLEMENTATION WORK SAFETY NO. PER.02/MEN/1980 [PERATURAN MENAKERTRANS TENTANG PEMERIKSAAN KESIHATAN TENAGA KERJA DALAM PENYELENGGARAAN KESELAMATAN KERJA NO. PER. 02/ MEN/1980];
MOMT REGULATION ON OBLIGATIONS TO REPORT WORK RELATED DISEASES NO. PER.01/MEN/1981, ART. 5 [PERATURAN MENAKERTRANS TENTANG KEWAJIBAN MELAPOR PENYAKIT AKIBAT KERJA NO. PER.01/MEN/1981, PASAL 5];

7.5.2. Pregnant Women

If work poses a significant risk to the health of a pregnant or nursing woman, measures must be taken to eliminate the risk, at no reduction in pay for the woman. Employers are prohibited from employing pregnant women between 11pm and 7am if according to doctor’s certificate that working during those hours would risk of damaging their health or harming their own safety and the safety of the baby that are in their wombs.

LEGAL REFERENCE:
MANPOWER ACT NO. 13 OF 2003, ARTS. 76, 83

7.5.3. HIV/AIDS Prevention

Employers must conduct risk assessments, develop policies, and educate workers on HIV/AIDS prevention and control. Employers must provide healthcare for people with HIV/AIDS.

LEGAL REFERENCES:
DIRECTOR-GENERAL OF MANPOWER MANAGEMENT AND MONITORING DECREES ON TECHNICAL GUIDANCE FOR HIV/AIDS PREVENTION AND CONTROL AT THE WORKPLACE NO. KEP.90/DIJKPS/VI/2005 SECTIONS A-D.
Employers are required to provide first aid facilities in the form of equipment, supplies, and materials used in the implementation of first aid at the workplace, which includes:

- First aid room;
- First aid boxes with contents;
- Evacuation and transportation equipments; and
- Additional facilities in the form of personal protective equipments and/or special equipment at the workplace specific potential hazards.

**First Aid Box Content**

<table>
<thead>
<tr>
<th>Contents</th>
<th>First Aid Box Type A (for 25 workers or less)</th>
<th>First Aid Box Type B (for 50 workers or less)</th>
<th>First Aid Box Type C (for 100 workers or less)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sterile gauze</td>
<td>20</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>2. Bandage, 5cm wide</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>3. Bandage, 10cm wide</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>4. Plaster, 1.25 cm wide</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>5. Quick Plaster</td>
<td>10</td>
<td>15</td>
<td>20</td>
</tr>
<tr>
<td>6. Cotton, 25 grams</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>7. Triangle cloth/sling</td>
<td>2</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>8. Scissors</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>9. Safety pins</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>10. Disposable gloves (in pairs)</td>
<td>2</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>11. Mask</td>
<td>2</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>12. Tweezers</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>13. Flashlight</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>14. Eye wash glass</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>15. Clean plastic bags</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>16. Distilled water (100 ml. Saline)</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>17. Iodine (60ml)</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>18. Alcohol 70%</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>19. First aid guidebook for the workplace</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>20. Note book</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>21. List of content</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Employers are required to appoint workers as First Aid Officers to have additional responsibilities carrying out first aid at the workplace. First aid officers must be present at each floors and at every shift must. Certified first aid officers must be present on every floor of the workplace and during every shift.

**Number of First Aid Officers at the Workplace**

<table>
<thead>
<tr>
<th>Workplace Risk Level</th>
<th>Number of Workers</th>
<th>Number of Required First Aid Officers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workplace with low risk level</td>
<td>25 to 150 workers</td>
<td>1 person</td>
</tr>
<tr>
<td></td>
<td>More than 150 workers</td>
<td>1 person for every 150 workers or less</td>
</tr>
<tr>
<td>Workplace with high risk level</td>
<td>100 workers or less</td>
<td>1 person</td>
</tr>
<tr>
<td></td>
<td>More than 100 workers</td>
<td>1 person for every 100 workers or less</td>
</tr>
</tbody>
</table>

**LEGAL REFERENCES:**

WORK SAFETY ACT NO. 1 OF 1970, ART. 9 (UU KESELAMATAN NO. 1 TAHUN, 1970, PASAL 9);
**Working Time**

### 8.1.1. Regular Working Hours

Regular working hours are limited to 40 hours per week. Any work beyond 40 hours is considered overtime. Employers can carry out the provisions of regular working hours per day in the following manner:

- No more than 7 hours per day for 6 regular working days per week regular, or
- No more than 8 hours per day for 5 regular working days per week.

**LEGAL REFERENCE:**

MANPOWER ACT NO. 13 OF 2003, ART. 77 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 77]

### 8.1.2. Working Time Records

Working time records should not be modified or falsified in any manner. Employers should have a reliable and fair attendance system.

Workers should not be instructed to work while they are not logged or punched in.

**LEGAL REFERENCES:**

MANPOWER ACT NO. 13 OF 2003, ARTS. 77-78 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 77-78];

MOMT DECREE OVERTIME HOURS AND OVERTIME WAGES NO. KEP.102/MEN/VI/2004, ARTS. 3-4, 6(3) [KEPUTUSAN MENAKERTRANS TENTANG WAKTU KERJA LEMBUR DAN UPAH KERJA LEMBUR NO. KEP.102/MEN/VI/2004, PASAL 3-4, 6(3)]

### 8.1.3. Work Breaks and Time Off

Employers are required to provide the workers at least a half hour of rest for every four hours of continuous work and this rest time is not counted as work time. Workers who work 40 hours in six days a week are entitled to one day off per week, and workers who work 40 hours in five days a week are entitled to two days off per week.

Employers requiring overtime work also must provide adequate time for rest and a meal break. Employers are required to provide drinks and nutritious food of at least 1,400 calories to workers who work overtime for three or more hours. This cannot be replaced with money.

**LEGAL REFERENCES:**

MANPOWER ACT NO. 13 OF 2003, ART. 79 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 79];

8.2. Overtime

Employers must provide a written instruction to work overtime and must obtain the written consent of the worker. Employers should make a list of implementation of overtime work that includes:

- The names of workers who are willing to work overtime;
- Amount of overtime hours to be performed;
- Amount of overtime hours that has been performed;
- Signature of employers and workers concerned.

Overtime should not exceed 3 hours per day or 14 hours per week, but this time restrictions on overtime work does not include overtime work performed on a weekly rest day or a public holiday. Employers must pay the correct overtime rates. Work on public holidays is permissible when the work is of such a nature that it must be performed continuously, or it has been agreed to by the employer and worker.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ARTS. 78, 85 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 78, 85];

8.3. Leave and Public Holidays

Indonesian law provides time off for public holidays, as well as for annual leave, sick leave, maternity leave, and other types of leave. Arrangements for leave may be regulated under work agreements, company regulations or collective bargaining agreements.

LEGAL REFERENCE:
MANPOWER ACT NO. 13 OF 2003, ARTS. 79-85, 93, 153 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 79-85, 93, 153]

8.3.1. Annual Leave

Workers are entitled to 12 days of paid time off for annual leave after 12 months of continuous service. Arrangements for annual leave may be specified in work agreements, company regulations or collective agreements.

LEGAL REFERENCE:
MANPOWER ACT NO. 13 OF 2003, ARTS. 79, 84 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 79, 84]
**8.3.2. Sick Leave**

Absence from work due to illness or injury should not deduct the workers' days of annual leave. Employers must provide continuous leave to workers who are ill if they provide a written statement from their doctor. The wage received by the workers should be as follows:

<table>
<thead>
<tr>
<th>Percentage of wages to be paid</th>
<th>Period of absence</th>
</tr>
</thead>
<tbody>
<tr>
<td>100%</td>
<td>The first 4 months</td>
</tr>
<tr>
<td>75%</td>
<td>The second 4 months</td>
</tr>
<tr>
<td>50%</td>
<td>The third 4 months</td>
</tr>
<tr>
<td>25%</td>
<td>Subsequent months</td>
</tr>
</tbody>
</table>

Female workers are entitled to paid leave on the 1st and 2nd days of menstruation, if they are ill and they cannot perform their work.

**LEGAL REFERENCE:**
MANPOWER ACT NO. 13 OF 2003, ARTS. 81, 93 AND EXPLANATORY NOTE TO ART. 93(2) [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 81, 93 DAN CATATAN PENJELASAN PASAL 93(2)]

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**8.3.3. Personal Leave**

Employers must provide paid time off for personal leave as follows:

<table>
<thead>
<tr>
<th>Reason for Leave</th>
<th>Days of Paid Leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worker’s marriage</td>
<td>3 days</td>
</tr>
<tr>
<td>Marriage of worker’s child</td>
<td>2 days</td>
</tr>
<tr>
<td>Son’s circumcision</td>
<td>2 days</td>
</tr>
<tr>
<td>Child’s baptism</td>
<td>2 days</td>
</tr>
<tr>
<td>Wife gives birth or has a miscarriage</td>
<td>2 days</td>
</tr>
<tr>
<td>Death of worker’s spouse, child, child-in-law, parents or parents-in-law</td>
<td>2 days</td>
</tr>
<tr>
<td>Member of worker’s household dies</td>
<td>1 day</td>
</tr>
</tbody>
</table>

**LEGAL REFERENCE:**
MANPOWER ACT NO. 13 OF 2003, ARTS. 93 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 93]

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**8.3.4. Maternity and Parental Leave**

Women are entitled to receive full wages during maternity leave, including 1.5 months before the birth and 1.5 months after the birth, as certified in writing by an obstetrician or midwife. In the event of a miscarriage, the worker is entitled to 1.5 months of paid leave or as certified in writing by an obstetrician or midwife.

Employers must provide opportunities and special facilities for mothers to breastfeed their infant during working hours.

**LEGAL REFERENCES:**
MANPOWER ACT NO. 13 OF 2003, ARTS. 82-84 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 82, 84]
HEALTH ACT NO. 36 OF 2009, ART. 128 [UU KESEHATAN NO. 36 TAHUN 2009, PASAL 128]

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**8.3.5. Leave for Certain Obligation**

Workers should be paid their wages when they take leave:
- To fulfill obligations to the State
- To perform religious obligations
- To undergo an educational program required by their employer, and
- To perform union duties with permission from the employer.

**LEGAL REFERENCE:**
MANPOWER ACT NO. 13 OF 2003, ART. 93(2) [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 93(2)]
9.1. About Industrial Relations

Industrial relations involve the interactions between government, workers, unions, employers, and employer associations, and is applied through company regulations, collective bargaining agreements, labour legislation and industrial relations dispute settlement institutions.

The Indonesian Manpower Act states that the government creates policy, provides services, oversees and enforces legislation. Workers and unions perform their work, act in a democratic manner, develop their skills and expertise, promote the business of their companies, and strive to improve the welfare of their families. Employers and employer organisations seek to create partnerships, develop their businesses, and provide welfare to workers in an open, democratic and fair manner.

LEGAL REFERENCE:
MANPOWER ACT NO. 13 OF 2003, ARTS. 102 - 103 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 102 - 103]

9.2. Bipartite Cooperation Institutions

Every company that employs 50 or more people must form a bipartite cooperation institution of at least six members. The bipartite institution is composed of equal number of representation of both worker representatives and employer representatives who are selected democratically. It must register and provide minutes of the meetings to the Local Manpower Office. It should meet at least once per month or whenever necessary.

The bipartite cooperation institution serves as a forum for communication, consultation and deliberation on labour issues, to increase the productivity and welfare of workers and to ensure business continuity.

The bipartite cooperation institution differs from a union and shall not replace the function of the union. Unions aim to hold employers accountable for the protection of workers’ rights and interests, and negotiate with management over terms and conditions of work in the collective bargaining agreement.

A bipartite cooperation institution is a forum where workers and management communicate and consult with each other regarding issues relating to industrial relations, enterprise sustainability and workers’ welfare.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ART. 106 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003 PASAL 106];
MOMT REGULATION ON PROCEDURES FOR THE BIPARTITE COOPERATION INSTITUTION ESTABLISHMENT AND MEMBERSHIP NO. PER.32/MEN/XII/2008 [PERATURAN MENAKERTRANS TENTANG TATA CARA PEMBENTUKAN DAN SUSUNAN KEANGGOTAAN LEMBAGA KERJA SAMA BIPARTIT NO. PER.32/MEN/XII/2008].

9.3. Tripartite Cooperation Institutions

The tripartite cooperation institution serves as a forum for the tripartite stakeholders (unions, employers, and government) for communication, consultation and deliberation. It aims to provide consideration, suggestion, and recommendation to the Government and relevant parties in formulating manpower policy and problem solving. A tripartite cooperation institution may be established at the regional, national, provincial and district (regency/city) levels, as well as at the sectoral level. Members are appointed for a three year term. Tripartite cooperation institutions at the national level are comprised of 15 governmental officials, 15 employer representatives, and 15 union representatives. The provincial level tripartite institution includes 9 representatives from each of the tripartite parties, and the county level includes 7 representatives each.

LEGAL REFERENCES:
MANPOWER ACT NO. 13 OF 2003, ART. 107 [UU KETENAGAKERJAAN NO. 13 TAHUN 2003, PASAL 107];
GOVERNMENT REGULATION ON PROCEDURES AND ORGANIZATIONAL STRUCTURE OF TRIPARTITE COOPERATION INSTITUTION NO.8 OF 2005[PP TENTANG TATA KERJA DAN SUSUNAN ORGANISASI LEMBAGA KERJA SAMA TRIPARTIT NO.08 TAHUN 2005];46 TAHUN 2008]