

PROCEDURES FOR IMPOSING AND LIFTING ADMINISTRATIVE SANCTION NOT SECURING SPECIFIED PUBLIC SERVICE ON NON-STATE ADMINISTRATOR EMPLOYERS (Regulation of the Minister of Manpower Number 23 Year 2016, dated July 12, 2016)

BY GRACE OF GOD THE ALMIGHTY

THE MINISTER OF MANPOWER OF THE REPUBLIC OF INDONESIA

Considering:

That in order to implement the provision of Article paragraph (2) of Government Regulation Number 44 Year 2015 on the Implementation of Occupational Safety Insurance and Death Insurance Program, Article 34 of Government Regulation Number 45 Year 2015 on the Implementation of Pension Security Program and Article 34 paragraph (2) of Government Regulation Number 46 Year 2015 on the Implementation of Old-Age Security Program, it is necessary to stipulate a regulation of the Minister of Manpower on Procedures for Imposing and Lifting Administrative Sanction Not Securing Specified Public Service on Non-State Administrator Employers;

In view of :

1. Law Number 40 Year 2004 on National Social Security System (Statute Book of the Republic of Indonesia Year 2004 Number 150, Supplement to Statute Book of the Republic of Indonesia Number 4456);
2. Law Number 24 Year 2011 on Social Security Management Board (Statute Book of the Republic of Indonesia Year 2011 Number 116, Supplement to Statute Book of the Republic of Indonesia Number 5256);
3. Government Regulation Number 85 Year 2013 on Procedures for Institutional Relations between Social Security Management Board (Statute Book of the Republic of Indonesia Year 2013 Number 230, Supplement to Statute Book of the Republic of Indonesia Number 5473);
4. Government Regulation Number 86 Year 2013 on Procedures for Imposing Administrative Sanction on Non-State Administrator Employers and Non-Employer Person, Employers and Beneficiaries of Contribution in the Implementation of Social Security (Statute Book of the Republic of Indonesia Year 2013 Number 238, Supplement to Statute Book of the Republic of Indonesia Number 5481);

5. Government Regulation Number 44 Year 2015 on the Implementation of Occupational Safety Insurance and Death Insurance (Statute Book of the Republic of Indonesia Year 2015 Number 154, Supplement to Statute Book of the Republic of Indonesia Number 5714);
6. Government Regulation Number 45 Year 2015 on the Implementation of Pension Security Program (Statute Book of the Republic of Indonesia Year 2015 Number 155, Supplement to Statute Book of the Republic of Indonesia Number 5715);
7. Government Regulation Number 46 Year 2015 on the Implementation of Old-age Security Program (Statute Book of the Republic of Indonesia Year 2015 Number 156, Supplement to Statute Book of the Republic of Indonesia Number 5716) as already amended by Government Regulation Number 60 Year 2015 on the Amendment to Government Regulation Number 46 Year 2015 concerning the Implementation of Old-Age Security Program (Statute Book of the Republic of Indonesia Year 2015 Number 187, Supplement to Statute Book of the Republic of Indonesia Number 5730);
8. Regulation of the Minister of Manpower Number 8 Year 2015 on Procedures for Drafting Law, Government Regulation and Presidential Regulation as well as Ministerial Regulation in the Ministry of Manpower (State Gazette of the Republic of Indonesia Year 2015 Number 411);

D E C I D E S :

To stipulate:

THE REGULATION OF THE MINISTER OF MANPOWER ON PROCEDURES FOR IMPOSING AND LIFTING ADMINISTRATIVE SANCTION NOT SECURING SPECIFIED PUBLIC SERVICE ON NON-STATE ADMINISTRATOR EMPLOYERS.

CHAPTER I

GENERAL

Article 1

Referred to in this regulation as:

1. Manpower Social Security Management Board hereinafter called BPUS Manpower shall be a public legal entity established on the basis of Law Number 24 Year 2011 on Social Security Management Board.
2. Non-State Administrator Employer hereinafter called Employer shall be individual person, business community legal entity and other entities employing manpower by paying salary, wage or compensation of other

form.

3. Specified Public Service Unit in Government Provincial Government and Regency/Municipal Government Institution hereinafter called Specified Public Service Unit shall be an unit authorized to provide public service in accordance with the provision of legislation.
4. Administrative Sanction Not Securing Specified Public Service shall be a sanction imposed by Specified Public Service Unit on non-state administrator employer that does not implement obligation in accordance with the provision of legislation.
5. Employee Supervising Manpower hereinafter called Manpower Supervisor shall be a civil servant appointed and assigned in functional position of manpower supervisor in accordance with the provision of legislation.
6. Minister shall be the minister in charge of manpower affairs.

CHAPTER II

ADMINISTRATIVE SANCTION NOT SECURING SPECIFIED PUBLIC SERVICE ON EMPLOYER

Article 2

Kinds of administrative sanction shall cover:

- a. written warning;
- b. fine; and/or
- c. not securing specified public service.

Article 3

Employers shall be subject to administrative sanction not securing specified administrative sanction if they violate:

- a. Article 59 paragraph (1) of Government Regulation Number 44 Year 2015 on the Implementation of Occupational Safety Health Insurance and Death Insurance;
- b. Article 34 of Government Regulation Number 45 Year 2015 on the Implementation of Pension Security Program;
- c. Article 33 paragraph (1) of Government Regulation Number 46 Year 2015 on the Implementation of Old-Age Security Program.

Article 4

- (1) BPUS Manpower shall impose the first written warning on employers violating the provision as meant in

- Article 3 in a period of 10 (ten) working days at the maximum.
- (2) Unless the first written warning is executed until the expiration of the 10 (ten) working day period as meant in (1) , BPUS Manpower shall impose the second written warning for a period of 10 (ten) working days.
 - (3) Fine shall be imposed unless the employers execute the obligation after the expiration of the second written-warning period.
 - (4) Unless the fine as meant in paragraph (3) is obeyed, the employers shall be subject to administrative sanction not securing specified public service.

Article 5

- (1) The imposition of administrative sanction not securing specified public service shall be done by Specified Public Service Unit.
- (2) The administrative sanction not securing specified public service may be imposed by requiring employers to complete evidence of participation in BPUS Manpower as well as the last contribution payment form from BPUS Manpower upon planning to secure specified public service.
- (3) Besides the imposition of sanction as meant in paragraph (2), the imposition of sanction may also be done on the basis of:
 - a. request from BPUS Manpower; or
 - b. recommendation from Manpower Supervisor.
- (4) The position of sanction as meant in paragraph (3) letter d shall be done on the basis of request from BPUS Manpower on each specified public service unit after coordinating with manpower supervisor by enclosing:
 - a. identity of employer;
 - b. the first written-warning;
 - c. the second written-warning; and
 - d. letter of the imposition of fine.
- (5) The imposition of sanction as meant in paragraph (3) letter b shall be done on the basis of recommendation of Manpower Supervisor to each specified public service unit after coordinating with BPUS Manpower.
- (6) In the case of the specified public service unit needing further data and information, it may clarify to BPUS Manpower and/or Manpower Supervisor.
- (7) Based on the request or recommendation as meant in paragraph (3), the specified public service unit shall impose administrative sanction not securing specified public service in accordance with the provision of legislation.

- (8) The administrative sanction not securing specified public service as meant in paragraph (7) shall be imposed until employers execute their obligation as meant in Article 3.

Article 6

In the case of the specified public service unit already imposing the administrative sanction not securing specified public service, BPUS Manpower and/or Manpower Supervisor shall monitor the implementation thereof.

Article 7

- (1) The administrative sanction not securing specified public service shall be revoked if employers have executed the obligation as meant in Article 3.
- (2) The revocation of the sanction as meant in paragraph (1) shall be done by the specified public service unit on the basis of:
- a. request from BPUS Manpower; or
 - b. recommendation from Manpower Supervisor.

CHAPTER III

to be continued

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