

THE AMENDMENT TO REGULATION OF THE MINISTER OF MANPOWER NUMBER 16 YEAR 2015 ON PROCEDURES FOR EMPLOYING EXPATRIATES (Regulation of the Minister of Manpower Number 35 Year 2015, dated October 23, 2015)

BY GRACE OF GOD THE ALMIGHTY
THE MINISTER OF MANPOWER OF
THE REPUBLIC OF INDONESIA

Considering:

- a. that Regulation of the Minister of Manpower Number 16 Year 2015 on Procedures for Employing Expatriates has not been suitable anymore to manpower development so as to need to be amended;
- b. that having regards to letter a, it is necessary to stipulate a regulation of the Minister on the Amendment to Regulation of the Minister of Manpower Number 16 Year 2015 regarding Procedures for Employing Expatriates;

In view of :

1. Law Number 3 Year 1951 on the Enforcement of Labor Law 1948 Number 23 of the Republic of Indonesia throughout (Statute Book of the Republic of Indonesia Year 1951 Number 4);
2. Law Number 7 Year 1981 on Manpower Reporting Obligation (Statute Book of the Republic of

Indonesia Year 1981 Number 39, Supplement to Statute Book of the Republic of Indonesia Number 3201);

3. Law Number 13 Year 2003 on Manpower (Statute Book of the Republic of Indonesia Year 2003 Number 39, Supplement to Statute Book of the Republic of Indonesia Number 4279);
4. Law Number 39 Year 2009 on Special Economic Area (Statute Book of the Republic of Indonesia Year 2009 Number 147, Supplement to Statute Book of the Republic of Indonesia Number 5066);
5. Law Number 6 Year 2011 on Immigration (Statute Book of the Republic of Indonesia Year 2011 Number 52, Supplement to Statute Book of the Republic of Indonesia Number 5216);
6. Law Number 7 Year 2011 on Currency (Statute Book of the Republic of Indonesia Year 2011 Number 64, Supplement to Statute Book of the Republic of Indonesia Number 5223);
7. Law Number 23 Year 2014 on Regional Administration (Statute Book of the Republic of Indonesia Year 2014 Number 244, Supplement to Statute Book of the Republic of Indonesia Number 5587);

DECIDES :

8. Government Regulation Number 65 Year 2012 on Kinds and Rates of Non Tax State Revenue Effective in the Ministry of Manpower and Transmigration (Statute Book of the Republic of Indonesia Year 2012 Number 154, Supplement to Statute Book of the Republic of Indonesia Number 5333);
9. Government Regulation Number 97 Year 2012 on Levy on Traffic Control and Levy on the Extension of License to Employ Expatriates (Statute Book of the Republic of Indonesia Year 2012 Number 216, Supplement to Statute Book of the Republic of Indonesia Number 5358);
10. Presidential Regulation Number 72 Year 2014 on Recruitment of Expatriates as well as the Implementation of Counterpart Manpower Education and Training (Statute Book of the Republic of Indonesia Year 2014 Number 162);
11. Presidential Regulation Number 18 Year 2015 on the Ministry of Manpower (Statute Book of the Republic of Indonesia Year 2015 Number 19);
12. Regulation of the Minister of Manpower Number 8 Year 2015 on Procedures for Drafting Law, Government Regulation, Presidential Regulation as well as Drafting Regulation of the Minister in the Ministry of Manpower (State Gazette of the Republic of Indonesia Year 2015 Number 411);
13. Regulation of the Minister of Manpower Number 16 Year 2015 on Procedures for Employing Expatriates (State Gazette of the Republic of Indonesia Year 2015 Number 964);

To stipulate:

THE AMENDMENT TO REGULATION OF THE MINISTER OF MANPOWER NUMBER 16 YEAR 2015 ON PROCEDURES FOR EMPLOYING EXPATRIATES.

Article I

Several provisions in Regulation of the Minister of Manpower Number 16 Year 2015 on Procedures for Employing Expatriates (State Gazette of the Republic of Indonesia Year 2015 Number 964) shall be amended as follows:

1. Article 3 is abolished.
2. A new article is supplemented between Article 4 and Article 5 to become Article 4A, which reads as follows:

Article 4A

Employers of TKA in the form of domestic investment shall be prohibited from employing TKA with the position commissioner.

3. The provision of Article 16 is amended so as to read as follows:

Article 16

RPTKA for tentative work shall be granted to:

- a. production of commercial film and already securing license from the authorized institution;
- b. production audit, quality control or inspection

in company branch in Indonesia for a period of over one month;

- c. work related to the installation of electrical machine, after sales service or product in business exploration period.

4. The provision of Article 37 is amended so as to read as follows:

Article 37

- (1) Every employer of TKA shall be obliged to have IMTA issued by the director.
- (2) TKA assuming the post of members of board of directors, members of board of commissioners, or member of patron board, member of governing board, members of supervisory board domiciled abroad shall not be obliged to have IMTA.
- (3) The obligation to have IMTA as meant in paragraph (1) shall not apply to representatives of foreign countries using TKA as diplomatic and consuler personnel.

5. The provision of Article 40 paragraph (2) is abolished so that Article 40 reads as follows:

Article 40

- (1) DKP-TKA as meant in Article 38 paragraph (1) letter a shall be set at US\$ 100 (one hundred US dollar) per position/month for every TKA, which is paid in advance.
- (2) Abolished.

- (3) Employer of TKA that employs TKA less than one month shall be obliged to pay DKP-TKA as much as one month.

- (4) The payment form of DKP-TKA as meant in paragraph (1) shall contain:

- a. name of employer of TKA;
- b. name of TKA;
- c. position of TKA;
- d. employment period of TKA;
- e. paid amount.

- (5) DKP-TKA as meant in paragraph (1) shall be paid by employer of TKA and remitted to account of DKP-TKA at government bank appointed by the minister.

- (6) DKP-TKA as meant in paragraph (1) shall constitute non-tax state revenue (PNBP).

6. The provision of Article 46 is amended so as to read as follows:

Article 46

- (1) IMTA for tentative work shall be granted to:
 - a. production of commercial film and already securing license from the authorized institution;
 - b. production audit, quality control or inspection in company branch in Indonesia for a period of over one month;
 - c. work related to the installation of electrical machine, after sales service or product in business exploration period.
- (2) IMTA for tentative work shall be granted for

a maximum period of 6 (six) months and shall not be extendable.

7. The provision of Article 66 is amended so as to read as follows:

Article 66

Employers of TKA that employ TKA in the position of members of board of director, members of board of commissioners, members of executive board, members of supervisory board domiciled in Indonesia shall be obliged to have IMTA as from the issuance of decision on legalization of the establishment and/or revision from the authorized institution.

8. A new article is supplemented between Article 66 and Article 67 to become Article 66A, which reads as follows:

Article 66A

Further provision on advocacy of TKI in the framework of the transfer of technology and skill shall be regulated further by a decision of the Director General.

9. A new chapter is supplemented between CHAPTER XI and CHAPTER XII to become CHAPTER BAB XIA and a new article is supplemented between Article 66A and Article 67 to become Article 66B so as to read as follows:

CHAPTER XIA

TRANSITIONAL PROVISION

Article 66B

With the promulgation of this ministerial regulation, employers of TKA already paying DKP-TKA on the basis of Regulation of the Minister of Manpower Number 16 Year 2015 on Procedures for Employing Expatriates for:

- a. the position of members of board of directors, members of board of commissioners, or members of patron board, members of governing board, members of supervisory board domiciled abroad as meant in Article 37 paragraph (2);
- b. tentative work granted for guiding, counseling and training in the application and innovation of industry technology in order to enhance the quality and design of industrial products as well as overseas marketing cooperation for Indonesia as meant in Article 46 paragraph (1) letter a, delivering the lecture as

meant in Article 46 paragraph (1) letter c, attending meeting organized by head office or representative in Indonesia as meant in Article 46 paragraph (1) letter d, TKA in the trial run of capability in working as meant in Article 46 paragraph (1) letter f, the once finished work as meant in Article 46 paragraph (1) letter g;
may not be withdrawn.

Article II

The regulation shall come into force as from the date of promulgation.

For public cognizance, the regulation shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On October 23, 2015

THE MINISTER OF MANPOWER OF THE REPUBLIC OF INDONESIA

sgd

M. HANIF DHAKIRI

Promulgated in Jakarta

On October 23, 2015

THE DIRECTOR GENERAL OF LEGISLATION OF THE MINISTRY OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA

sgd.

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2015 NUMBER 1599

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