

WORKING TIME AND REST TIME IN UPSTREAM OIL AND NATURAL GAS BUSINESS ACTIVITY

(Regulation of the Minister of Manpower and Transmigration Number 4 Year 2014, dated March 10, 2014)

BY GRACE OF GOD THE ALMIGHTY

THE MINISTER OF MANPOWER AND TRANSMIGRATION OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that upstream oil and natural gas business activity has specific characteristic because of business location, nature and kind of continuous work and it is influenced by natural and geographic factor;
- b. that having regards to the provision Article 77 paragraph (3) and paragraph (4), Article 78 paragraph (3) and paragraph (4) of Law Number 13 Year 2003 on Manpower, it is necessary to stipulate a ministerial regulation regarding working time and rest time in upstream oil and natural gas business activity;

In view of:

1. Law Number 3 Year 1951 on Declaration of the Enforcement of Labor Supervisory Law of Year 1948 Number 23 throughout Indonesia (Statute Book of the Republic of Indonesia Year 1951 Number 4);
2. Law Number 1 Year 1970 on Occupational Safety (Statute Book of the Republic of Indonesia Year 1970 Number 1, Supplement to Statute Book of the Republic of Indonesia Number 2918);
3. Law Number 3 Year 1992 on Manpower Social Security (Statute Book of the Republic of Indonesia Year 1992 Number 14, Supplement to Statute Book of the Republic of Indonesia Number 3468);
4. Law Number 22 Year 2001 on Oil and Natural Gas (Statute Book of the Republic of Indonesia Year 2001 Number 136, Supplement to Statute Book of the Republic of Indonesia Number 4152);
5. 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);
6. Government Regulation Number 35 Year 2004 on Upstream Oil and Natural Gas Business Activity (Statute Book of the Republic of Indonesia Year 2004 Number 123, Supplement to Statute Book of the Republic of Indonesia Number 4435);

7. Presidential Regulation Number 21 Year 2010 on Manpower Supervision;
8. Presidential Regulation Number 95 Year 2012 on the Shift in the Execution of Tasks and Functions of Upstream Oil and Natural Gas Business Activity (Statute Book of the Republic of Indonesia Year 2012 Number 226);
9. Presidential Instruction Number 2 Year 2012 on National Oil Production Increasing;
10. Decree of the Minister of Manpower and Transmigration Number KEP.234/MEN/2003 on Working Time and Rest Time of Energy and Mineral Resource Business Sector in Certain Regions;
11. Decree of the Minister of Manpower and Transmigration Number KEP.102/MEN/VI/2004 on Overtime and Overtime Pay;

D E C I D E S :

To stipulate:

THE REGULATION OF THE MINISTER OF MANPOWER AND TRANSMIGRATION ON WORKINGTIME AND REST TIME IN UPSTREAM OIL AND NATURAL GAS BUSINESS ACTIVITY.

Article 1

Referred to in this regulation as:

1. Working Time shall be time used to execute a job in one specified period.
2. Overtime shall be working time exceeding 7 (seven) hours in one day and 40 (forty) hours in one week in the case of 6 (six) working day in one week, or 8 (eight) hours in one day and 40 (forty) hours in one week, in the case of 5 (five) working days in one week or working time in weekly day off and/or official holiday stipulated by the government.
3. Overtime Pay shall be a wage yet to be paid to worker/labor to execute work more than 7 (even) hours in one day and 40 (forty) hours one week in the case of 6 (six) days in one week or 8 (eight) hours in one day and 40 (forty) hours in one week in the case of 5 (five) working days in one week.
4. Working Period shall be a specified time for worker/labor to execute work.
5. Area of Upstream Oil and Natural Gas Business Activity shall be location where offshore and/or onshore exploration and exploitation are executed or other region stipulated by company on the basis of the operational need.

6. Worker/Labor shall be everybody working by receiving wage or compensation in other form, who is employed in upstream oil and natural gas industry.
7. Company shall be:
 - a. every business entity having legal entity or not, belonging to individual, group or legal entity, either private or state owned, which employs worker/labor by paying wage or compensation in other form;
 - b. social business or other business having executive and employing other people by paying wage or compensation in other form.
8. Oil and Natural Gas Supporting Provider shall be a company executing activity in the framework of supporting operational activity of upstream oil and natural gas company.
9. Minister shall be the Minister of Manpower and Transmigration.

Article 2

- (1) Companies operating in upstream oil and natural gas business activity, including supporting service provider may choose and stipulate any and/or several types of the following working time and rest time in accordance with the operational need of the companies:
 - a. working time 6 (six) days in one week and rest time one day in one week with the provision that the working time is 7 (seven) hours in one day and 40 (forty) hours in one week;
 - b. working time 5 (five) days in one week and rest time 2 (two) days in one week with the provision that the working time is 7 (seven) hours in one day and 40 (forty) hours in one week; and
 - c. working time maximally 28 (twenty eight) days consecutively with the provision that the ratio of working time to rest time is minimally 2 (two) against 1 (one) in one working period. In the case of the ratio of working time to rest time resulting in a fraction, the rest time is rounded up.
- (2) In the case of a company applying the working time and rest time as meant in paragraph (1) letter c, the working time shall be maximally 11 (eleven) hours in one day with the provision that the working time excludes rest time minimally one hour.
- (3) The implementation of the working time and rest time as meant in paragraph (1) shall be regulated in working agreement, corporate rule or collective working agreement in accordance with the working time and rest time chosen and stipulated by the company.
- (4) In applying the working time and rest time as meant in paragraph (1) letter a and letter b, Decree of the Minister of Manpower and Transmigration Number KEP.102/MEN/VI/2004 on Overtime and Overtime Pay shall apply.

- (5) In the case of company already choosing the working time and rest time as meant in paragraph (1) letter c but worker/labor being employed less than the chosen working time, the company shall be obliged to pay wage and overtime pay in accordance with the chosen and stipulated working time.

Article 3

In the case of official holiday falling in one working period already chosen and stipulated by the company on the basis of the working time as meant in Article 2 paragraph (1) letter c, the official holiday shall be deemed as ordinary working day.

Article 4

- (1) Companies adopting the working time as meant in Article 2 paragraph (1) letter c, shall be obliged to pay overtime pay after 7 (seven) working days with the value of overtime pay as follows:
- a. in the case of working time 8 (eight) hours in one day, the value of overtime pay everyday is 1 ½ (one and a half) times hourly wage;
 - b. in the case of working time 9 (nine) hours in one day, the value of overtime pay everyday is 3 ½ (three and a half) times hourly wage;
 - c. in the case of working time 10 (ten) hours in one day, the value of overtime pay everyday is 5 ½ (five and a half) times hourly wage; and
 - d. in the case of working time 11 (eleven) hours in one day, the value of overtime pay everyday is 7 ½ (seven and a half) times hourly wage.
- (2) In the case of the worker/employee as meant in Article 2 paragraph (1) letter c being employed on day off in working period, the overtime pay shall be calculated as follows:
- a. every hour in the limit of 7 (seven) hours, the value of overtime is minimally 2 (two) times weekly wage;
 - b. the first working hour after 7 (seven) hours, the value of overtime pay is minimally 3 (three) times hourly wage; and
 - c. the second working hour after 7 (seven) hours and so on, the value of overtime pay is 4 (four) times hourly wage.

Article 5

- (1) The calculation of overtime pay shall be based on monthly wage.

- (2) The hourly wage is 1/173 time monthly wage.
- (3) If the wage consists of basic salary and fixed allowance, the overtime pay shall be 100% (one hundred percent) of the wage.
- (4) If the wage consists of basic salary, fixed allowance and non-fixed allowance but the sum of basic salary and fixed allowance is less than 75% (seventy five percent) of the total wage, the basis for the calculation of overtime pay shall be 75% (seventy five percent) of the total wage.
- (5) Companies operating in upstream oil and natural gas business activity, including supporting service provider shall have list of wage and overtime pay of every worker/labor.

Article 6

- (1) Companies operating in upstream oil and natural gas business activity, including supporting service provider may replace and/or change working time and rest time or working period by choosing and stipulating again the working time and rest time or working period in accordance with the provision as meant in Article 2 paragraph (1).
- (2) The replacement and/or change in the working time and rest time or working period as meant in paragraph (1) shall be notified first by the companies to worker/labor in no later than 30 (thirty) day before the change is executed.

Article 7

Time used by worker/labor from residence recognized by the companies to workplace and vise versa shall include working time if the journey takes 24 (twenty four) hours or over.

Article 8

- (1) Worker/labor coming into specified position category shall not deserve overtime pay.
- (2) Worker/labor coming into the specified position category as meant in paragraph (1) shall be those having responsibility as thinker, planner, executor and controller of corporate operation that the company is unable to restrict their working time in accordance with the working time stipulated corporate rule/collective working agreement, with the provision that they receive wage higher than wage of worker/labor deserving overtime pay.

Article 9

- (1) In the case of any difference in the calculation of the value of overtime pay, regency/municipal manpower supervisor shall be authorized to stipulate the value of the overtime pay.
- (2) In the case of any of the parties being not acceptable to the stipulation of the manpower supervisor as meant in paragraph (1), the party may seek re-stipulation from provincial manpower supervisor.
- (3) In the case of any of the parties being not acceptable to the stipulation of the manpower supervisor as meant in paragraph (2), the party may ask for restipulation from manpower supervisor in the Ministry of Manpower and Transmigration.

Article 10

- (1) In the case of any difference in the calculation of the value of overtime pay in company covering more than one regency/city inside the same province, provincial manpower supervisor shall be authorized to stipulate the value of the overtime pay.
- (2) In the case of any difference in the calculation of overtime pay in company covering more than one province, manpower supervisor of the Ministry of Manpower and Transmigration shall be authorized to stipulate the value of the overtime pay.

Article 11

- (1) Companies using the working time as meant in

Article 2, shall be obliged to report the implementation thereof periodically every 3 (three) months and every change to institution in charge of manpower affairs in regency/city with a copy made available to the institution in charge of manpower affairs in province and the ministry.

- (2) The report as meant in paragraph (1) shall contain:
 - a. the working time and rest time or working period chosen and stipulated by the companies; and
 - b. the quantity of worker/labor in accordance with the chosen working period.

Article 12

- (1) Companies in upstream oil and natural gas business activity, including supporting service provider executing tentative work, covering seismic survey and design and engineering that is unable to apply the provision on the working time and rest time or the working period as meant in Article 2, may implement working time and rest time or working period in accordance with the operational need of the companies with the provision that:
 - a. the completion period of the work is maximally one year;
 - b. the companies submit application to institution in charge of manpower affairs in regency/city to implement the working time and rest time or working period outside the provision as meant in Article 2;

- c. the institution in charge of manpower affairs in regency/city examines the technical and administrative requirements related to the work;
 - d. based on the examination as meant in letter c, the institution in charge of manpower affairs issues recommendation in no later than 7 (seven) days as from the fulfillment of the technical and administrative requirements in accordance with the operational need of the companies with the provision that one working period is maximally 3 (three) months and rest time is minimally one month and rest time minimally one day is granted every 14 (fourteen) days consecutively;
 - e. the regulation of the working time and rest time or working period is written down into working agreement;
 - f. working hour in one day is maximally 11 (eleven) hours, excluding rest time minimally one hour; and
 - g. paying the overtime pay as meant in Article 4.
- (2) In the case of the completion of the work exceeding the period as meant in paragraph (1) letter a, companies may submit application for the extension of the working time to institution in charge of manpower affairs for another term of extension with the period maximally one year by the mechanism and requirement as meant in paragraph (1) letter b up to letter g.

Article 13

Supervision over the compliance to this regulation shall be done by manpower supervisor in the institution in charge of manpower affairs.

Article 14

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 March 10, 2014

THE MINISTER OF MANPOWER AND TRANSMIGRATION OF THE REPUBLIC OF INDONESIA

sgd.

Drs. H.A. MUHAJIMIN ISKANDAR, M.Si

Promulgated in Jakarta

On March 10, 2014

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA

sgd

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
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