

**INDONESIAN PRESIDENTIAL REGULATION**

**NUMBER 20 OF YEAR 2018**

**CONCERNING**

**USAGE OF FOREIGN MANPOWER**

**BY THE GRACE OF GOD ALMIGHTY**

**PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Considering:

- a. That of to increase the national economy and expansion of employment opportunities through the increase of investments, there is a need to revise permissions of using foreign manpower;
- b. That of the licensing arrangements for foreign manpower which are regulated in the Presidential Regulation Number 72 of Year 2014 concerning Usage of Foreign Manpower and the Implementation of Education and Training of Companion Workers, must be adjusted with the development of the need of increased investment;
- c. That of the considerations intended in letter (a.) and letter (b.), it is necessary to enact a Presidential Regulation concerning Usage of Foreign Manpower.

In view of:

1. Article 4 section (1) Constitution of the Republic of Indonesia Year 1945
2. Act Number 3 Year 1951 concerning the Statement of Enactment of The Law Concerning The Supervision of Manpower Year 1948 Number 23 from The Republic of Indonesia to Indonesia (State Gazette of The Republic of Indonesia Year 1951 Number 4);
3. Act Number 13 Year 2003 concerning Manpower (State Gazette of The Republic of Indonesia Number 39 Year 2003, Supplement to The Official Gazette of The Republic of Indonesia Number 4279);
4. Act Number 25 Year 2007 concerning Capital Investment (State Gazette of The Republic of Indonesia Number 67 Year 2007, Supplement to The Official Gazette of The Republic of Indonesia Number 4724);
5. Act Number 6 Year 2011 concerning Immigration (State Gazette of the Republic of Indonesia Number 52, Supplement to The Official Gazette of The Republic of Indonesia Number 5216);
6. Presidential Regulation Number 91 Year 2017 concerning The Acceleration of Implementing Businesses (State Gazette of The Republic of Indonesia Year 2017 Number 210).

DECIDE:

To stipulate:

PRESIDENTIAL REGULATION CONCERNING THE USAGE OF FOREIGN MANPOWER.

## **CHAPTER 1**

### **GENERAL PROVISIONS**

#### **Article 1**

Under this Presidential Regulation, the following definitions shall apply:

1. Foreign Manpower hereinafter abbreviated as FM refers to foreign citizen holders of a visa with the intent to work in Indonesian territory.
2. Companion Workers refers to the Indonesian manpower appointed and prepared as companion(s) in order to shift technology and shift expertise.
3. Employers of Foreign Manpower hereinafter referred to as Employers of FM is a legal entity or another entity who employs FM by paying wages or other rewards in another form.
4. The Foreign Manpower Recruitment Plan hereinafter abbreviated as FMRP refers to the plan of using FM at a certain position which is made available by the Employers of FM for a certain time period which is legalized by the minister in charge of government affairs in the field of employment or appointed officials.
5. Limited Stay Visa hereinafter referred to as Vitas is a written statement which is given by an authorized official in the Representatives of The Republic of Indonesia or in other places which are determined by the Government of The Republic of Indonesia which fulfils the agreement for Foreigners to travel the Indonesian Territory and acts as a basis for granting a Limited Stay Permit in order to work.
6. Temporary Resident Permit hereinafter referred to as Itas is a permit which is given to certain foreigners to reside and stay in Indonesian Territory within a certain time period to work.
7. Immigration Checkpoint is a checkpoint in seaports, airports, cross-border posts, or other places which has been integrated with The Management of Immigration Database as an entry and exit point of the Indonesian Territory.
8. The Manpower Supervision Personnel hereinafter referred to as The Manpower Supervisor is a civil servant who is appointed and assigned to functional positions of the Manpower Supervisor in accordance with the provisions of legislation.
9. The Minister is a minister who conducts government affairs in the field of manpower.

## **CHAPTER II**

### **USAGE OF FOREIGN MANPOWER**

#### **Article 2**

- (1) The use of FM shall be conducted by the Employers of FM in an employment relationship for certain positions and at a certain time.

- (2) The usage of FM as referred to in subsection (1) shall be conducted with due regard to the conditions of the domestic labor market.

### **Article 3**

Employers of FM as mentioned in Article 2, shall include:

- a. government agencies, representatives of foreign countries, international agencies, and international organizations;
- b. foreign trade office representative, foreign companies' representative office, and foreign news agencies conducting activities in Indonesia;
- c. foreign private companies operating in Indonesia;
- d. legal entity established under the Indonesian law in the form of a Limited Liability Company or institution, or foreign business entity which is registered in the authorized agency;
- e. social, religious, educational, and cultural institutions
- f. impresario service business; and
- g. business entity as long as it is not prohibited by the law

### **Article 4**

- (1) It is compulsory for every Employer of FM to prioritize using Indonesian manpower for all types of positions available.
- (2) In the event that the positions referred to in subsection (1) could not yet be occupied by the Indonesian manpower, therefore the position could be occupied by FM.

### **Article 5**

- (1) It is prohibited for FM to occupy positions which are in charge of certain personnel and/or positions.
- (2) The positions referred to in subsection (1) are determined by the Minister.
- (3) In the case of a ministry/institution requiring qualification and competence, or prohibiting FM to occupy certain positions, ministers/heads of institutions must submit the terms or restrictions to the Minister to be stipulated

### **Article 6**

- (1) Employers of FM in certain sectors are able to employ FM whom are being employed by other Employers of FM in the same position.
- (2) FM as referred to in subsection (1) shall be employed at the latest until the expiration of the work period as defined in the initial contract of the FM with the Employer of FM.
- (3) Type of position, sector, and procedures for the use of FM as referred to in subsection (1) and subsection (2) are arranged further with the Ministerial Regulations.

### **Article 7**

- (1) Every Employer of FM that uses FM must have a FMRP which is legalized by the Minister or appointed officials.

- (2) FMRP as referred to in subsection (1) shall at least include:
  - a. reasons for the use of FM;
  - b. position of FM in the organizational structure of the business concerned;
  - c. duration of FM usage; and
  - d. appointment of Indonesian manpower as a companion to the employed FM.
- (3) To obtain ratification of FMRP as referred to in subsection (1), Employers of FM shall submit an application to the Minister or appointed official.
- (4) The application for ratification the FMRP as referred to in subsection (3) shall be submitted by the Employers of FM by enclosing:
  - a. business permit(s) from an authorized institution;
  - b. deed(s) and approval of the establishment and/or amendment from an authorized institution;
  - c. organizational structure of the business;
  - d. a statement letter for the appointment of a Companion Worker and implementation of education and job training; and
  - e. a statement letter for the implementation of education and job training for Indonesian manpower in correspondence with the qualification of the position occupied by FM.
- (5) In addition to the information referred to in subsection (2), FMRP may include a plan of usage of FM for temporary employment or at any time with a working period of 6 (six) months, such as work to audit, production quality control, inspection of branch companies in Indonesia, and work related to installation or maintenance of machineries.

#### **Article 8**

FMRP approval shall be granted by the Minister or appointed official no longer than 2 (two) days since the application is received completely.

#### **Article 9**

FMRP approval as referred to in Article 8 is a permit to employ FM.

#### **Article 10**

- (1) It is not mandatory for the Employers of FM to have a FMRP to employ FM who is:
  - a. shareholders who are members of the Board of Directors or members of the Board of Commissioners of the Employer of FM;
  - b. diplomatic and consular officers at representative offices of foreign countries; or
  - c. FM on the type of work which is required by the government.
- (2) The type of work which is required by the government as referred to in subsection (2) letter c is set by the Minister.

#### **Article 11**

- (1) FMRP which has been approved as referred to in Article 8 is valid accordance with the duration of the FM usage plan made by the Employer of FM.
- (2) FMRP as referred to in subsection (1) shall be amended as long as there is changes regarding:
  - a. address of Employer of FM;
  - b. name of Employer of FM;

- c. the position in which FM will occupy;
  - d. the need of using FM for work which is temporary and is not listed in the FMRP as referred to in Article 5 subsection (5);
  - e. duration of FM usage;
  - f. amount of FM which exceeds the amount of FM in the initial FMRP; and/or
  - g. appointment of Indonesian manpower as Companion Workers to employed FM.
- (3) Employer of FM shall convey changes of FMRP as referred to in subsection (2) to the Minister or appointed official.
- (4) Changes in FMRP as referred to in subsection (2) must receive an approval from the Minister or appointed official.

## **Article 12**

The change of FMRP is approved by the Minister or the appointed official no longer than 2 (two) days since the application is received completely.

## **Article 13**

- (1) For emergency and urgent work, Employers of FM may employ FM by applying for ratification of FMRP to the Minister or appointed official no longer than 2 (two) working days after the FM has started working
- (2) The ratification as referred to in subsection (1) shall be given by the Minister or an appointed official, no longer than 1 (one) working day after the application is received completely.

## **Article 14**

- (1) Employer of FM who will employ FM shall convey the data of the FM candidate to the Minister or appointed official.
- (2) Data of the FM candidate as referred to in subsection (1) shall cover:
- a. name, gender, place and date of birth;
  - b. nationality, passport number, passport validity period, and the place where the passport was issued;
  - c. name of the position and the duration of the work;
  - d. guarantee statement from Employer of FM; and
  - e. education certificate and certificate of work experience or competency certificate in accordance with the terms of occupation that will be occupied by FM.
- (3) The minister or the appointed official shall convey the notification of receiving of data of the candidates of FM as referred to in subsection (1) to the Employer of FM no longer than 2 (two) working days with a copy of the Directorate General of Immigration.

## **Article 15**

- (1) Employers of FM are required to pay compensation for the use of FM for each FM employed after receiving the notification.
- (2) Payment of compensation for the use of FM as referred to in subsection (1) shall be made through a bank appointed by the Minister.
- (3) Payment of compensation for the use of FM by the Employer of FM is a non-tax state revenue.

#### **Article 16**

- (1) Government agencies, representatives of foreign countries, and international agencies employing FM are not obligated to have FMRP and pay compensation funds for the use of FM.
- (2) The use of FM in social institutions, religious institutions, and the use of FM in certain positions in educational institutions, does not require paying a compensation fund for the use of FM.
- (3) Provisions regarding certain positions in educational institutions as referred to in subsection (2), shall be further stipulated by the Ministerial Decree.

#### **Article 17**

- (1) It is mandatory for all FM working in Indonesia to own a Vitas to work.
- (2) Vitas as referred to in subsection (1) shall be requested by the Employer of FM or FM to the minister in charge of government affairs in the field of law and human rights or appointed immigration officials.
- (3) Appointed immigration officials as referred to in subsection (2) includes immigration officials who are located in the overseas Representative of The Republic of Indonesia.

#### **Article 18**

Request of the Vitas as referred to in Article 17 subsection (2) shall be requested by attaching a notification and proof of payment.

#### **Article 19**

Immigration officials in the overseas Representative of The Republic of Indonesia shall give the Vitas at the latest 2 (two) days after the request is received in full.

#### **Article 20**

- (1) Request of Vitas as referred to in Article 17 subsection (2) can be at the same time a request for Itas.
- (2) In terms of the submission of Itas application at the same time with the request of Vitas as referred to in subsection (1), the process of application for the submission of Itas shall be carried out by the overseas Representative of The Republic of Indonesia which is an extension of the Directorate General of Immigration.

#### **Article 21**

- (1) The delivery of Itas will take place in the Immigration Checkpoint
- (2) Itas as referred to in subsection (1) is a permit for FM to reside and work.
- (3) The permit for FM to reside and work, for the first time will be given a maximum of 2 (two) years and can be extended in accordance with the provisions of law.
- (4) Granting of Itas for FM as referred to in subsection (1) shall be accompanied by the Re-Entry Permit for several times of travel with a validity period in accordance with the validity period of the Itas.

## **Article 22**

In carrying out emergency and urgent work, FM may use the type of visa and residence permit designated for such activities as stipulated in the legislation.

## **Article 23**

The Vitas application to work and Itas for FM is subject to the cost of Non-Tax State Revenue of the ministry in charge of government affairs in the field of law and human rights in accordance with the provisions of law.

## **Article 24**

- (1) Payment of The Compensation Fund For Using Foreign Manpower will be conducted every year in accordance with the time period of FM working in Indonesian Territory.
- (2) In the case of using FM more than 1 (one) year, payment and compensation for the second year and the following year as referred to in subsection (1) will become:
  - a. non-tax state revenue, in the case of the FM working in more than 1 (one) province;
  - b. provincial revenue, in the case of FM working in more than 1 (one) district/city in 1 (one) province; and
  - c. district/city revenue, in the case of FM working in 1 (one) district/city.

## **Article 25**

It is mandatory of every Employer of FM to guarantee that the FM is registered in the Social Security for those FM who are working more than 6 (six) months and/or insurance policy in an insurance company incorporated in Indonesia.

## **CHAPTER III**

### **IMPLEMENTATION OF EDUCATION AND TRAINING**

#### **Article 26**

- (1) Each Employer of FM must:
  - a. appoint an Indonesian manpower as a Companion Worker;
  - b. implement education and training for Indonesian manpower in accordance with occupational qualifications occupied by FM; and
  - c. facilitate education and training of Indonesian language for FM.
- (2) Provisions as referred to in subsection (1) letter a is no longer valid for FM who occupies a director and/or commissioner position.

#### **Article 27**

Appointment of Indonesian manpower as a Companion Worker as referred to in Article 26 subsection (1) letter a is done to shift technology and shift expertise.

#### **Article 28**

- (1) Education and training as referred to in Article 26 subsection (1) letter b can be carried out in and/or outside the country.
- (2) Implementation of education and training in the country as referred to in subsection (1) is carried out in accordance to the provisions of law.

#### **Article 29**

Companion Worker(s) who follows the education and training shall receive a training certificate and/or competency certificate in accordance with the provisions of law.

### **CHAPTER IV**

#### **REPORTING**

#### **Article 30**

- (1) Employer of FM must report the implementation of the usage of FM every 1 (one) year to the Minister.
- (2) The report as referred to in subsection (1), shall include:
  - a. implementation of FM usage; and
  - b. implementation of education and training of Companion Worker.
- (3) In the event that the FM employment contract will be terminated prior to the term of employment contract period, the Employer of FM shall report to the Minister and Head of the Immigration Office at the location of the residence of FM.



### **Article 31**

The Minister or appointed official(s) must convey data of FM employed by the Employers of FM to the provincial/district/city working units in charge of employment in accordance with the location of the work of the FM.

## **CHAPTER V**

### **DEVELOPMENT AND SUPERVISION**

### **Article 32**

The development on Employers of FM in the use of FM and the implementation of education and training shall be conducted by ministries in charge of affairs in the field of manpower and offices in charge of manpower in provinces and districts/cities in accordance with their authority.

### **Article 33**

- (1) Supervision of the usage of FM is carried out by:
  - a. Manpower Supervisor at the ministries and provincial agencies in charge of affairs in the field of manpower; and
  - b. immigration officer in charge in the field of supervision and education of immigration.in a coordinated manner in accordance with the scope of work and authority, respectively.
- (2) Manpower Supervisor as referred to in subsection (1) letter a conducts supervision on the norms of using FM in accordance with the provisions of law.
- (3) Supervision of education and training of Companion Worker is conducted by the Manpower Supervisor in the ministry and provincial agency which is in charge of manpower collectively or individually in accordance with the scope of work and authorities, respectively.

## **CHAPTER VI SANCTION**

### **Article 34**

- (1) Employers of FM who violates the provisions of using FM, implementation of education and training of Companion Worker, and reporting are subject to sanctions in accordance with the provisions of law in the field of manpower.
- (2) Employers of FM who gives a false testimony in the guarantee statement or fails to comply with the guarantee given by the Employer of FM and FM who violates immigration permit conditions shall be

liable to sanctions in accordance with the provisions of the laws and regulations in the field of immigration.

## **CHAPTER VII**

### **FINANCING**

#### **Article 35**

All costs required for the implementation of this Presidential Regulation shall be imposed on the State Budget, Provincial Budget, as well as other legitimate sources of funding in accordance with the provisions of law.

## **CHAPTER VIII**

### **MISCELLANEOUS PROVISIONS**

#### **Article 36**

- (1) The process of using FM and the implementation of the Education and Training of Companion Workers as regulated in this Presidential Regulation, is done through the use of data sharing and is electronically integrated (online).
- (2) The use of data sharing and electronically integrated (online) is carried out through phases.
- (3) In the case of the overseas Representatives of The Republic of Indonesia does not have an electronic system (online), Vitas approval by ministers in charge of governmental affairs in the field of law and human rights or immigration officials is provided through electronic mail telecommunications.

## **CHAPTER IX**

### **TRANSITIONAL PROVISIONS**

#### **Article 37**

When this Presidential Regulation comes into force:

- a. FMRP and permit that is owned by the Employers of FM and is set by the Government before this Presidential Regulation is in force, shall remain valid until its expiry date; and

*(Unofficial English Translation)*

- b. The application of FMRP and permission that has been conveyed before this Presidential Regulation is in force shall be settled with reference to the provisions stipulated in this Presidential Regulation.

## **CHAPTER X**

### **CLOSING PROVISIONS**

#### **Article 38**

When this Presidential Regulation comes into force:

- a. Presidential Regulation Number 72 year 2014 concerning Usage of Foreign Manpower and Implementation of Education and Training of Companion Worker (State Gazette of The Republic of Indonesia Year 2014 Number 162), is revoked and declared null and void; and
- b. All laws and regulations as the implementation of Presidential Regulation Number 72 Year 2014 on the Use of Foreign Workers and the Implementation of Education and Training of Companion Workers, shall remain valid as long as they are not contrary to this Presidential Regulation.

#### **Article 39**

This Presidential Regulation shall be effective after 3 (three) months upon the date of its promulgation. For the cognizant of the public, it is ordered that this Presidential Regulation be promulgated in the State Gazette of The Republic of Indonesia.

Legalized in Jakarta

On 26 March, 2018

PRESIDENT OF THE REPUBLIC OF INDONESIA

JOKO WIDODO

*(Unofficial English Translation)*

Promulgated in Jakarta,

On 29 March, 2018

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

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2018 NUMBER 39