

Type: LAW (UU)  
By: THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
Number: 39 YEAR 2004(39/2004)  
Date: OCTOBER 18, 2004 (JAKARTA)  
Reference: LN 2004/133; TLN NO 4445  
Title: OVERSEAS PLACEMENT AND PROTECTION OF INDONESIAN WORKERS

WITH THE GRACE OF THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. whereas working is a human right that must be upheld and respected, and the enforcement thereof guaranteed;
- b. whereas every worker shall have equal rights and opportunities to obtain decent occupation and income, either locally or abroad, according to his or her expertise, skill, talent, interest, and ability;
- c. whereas Indonesian workers abroad frequently become objects of human trade, including slavery and forced labor, victims of violence, tyranny, crimes against humanity and human dignity, and other treatments in violation of human rights;
- d. whereas the state must guarantee and protect the basic rights of its citizens working locally or abroad based on equality, social justice, gender equality and justice, anti-discrimination, and anti-human trade;
- e. whereas the overseas placement of Indonesian workers is an effort to create equal rights and opportunities for workers to obtain decent occupation and income in observance of human dignity, human rights, legal protection, equal work opportunities, and employment of workers according to local demand;
- f. whereas the overseas placement of Indonesian workers needs to be done integrally between central and regional government institutions and community participation in a legal system in order to protect Indonesian workers placed in foreign countries;
- g. whereas the existing regulations on labor affairs have not stipulated adequately, expressly, and in detail, the overseas placement and protection of Indonesian workers;
- h. whereas Law Number 13 Year 2003 on Labor Affairs governs that the overseas placement of Indonesian workers shall be governed by a law;

- i. whereas considering the matters of paragraphs a, b, c, d, e, f, g, and h, it is necessary to stipulate a law on the Overseas Placement and Protection of Indonesian Workers;

In view of:

1. Articles 20, 21, 27 paragraph (2), 28 D paragraphs (1) and (2), 28 E paragraphs (1) and (3), and 29 of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 13 Year 2003 on Labor Affairs (State Gazette Year 2003 Number 39, Supplement to State Gazette Number 4279);

With the joint approval of  
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC  
OF INDONESIA  
AND  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To stipulate: LAW ON THE OVERSEAS PLACEMENT AND PROTECTION OF  
INDONESIAN WORKERS.

## CHAPTER I GENERAL PROVISIONS

### Article 1

Hereinafter referred to as:

1. Indonesian Worker, hereinafter referred to as TKI, is an Indonesian citizen qualified to work abroad in an employment relationship for a certain period and receiving a wage.
2. Candidate Indonesian Worker, hereinafter referred to as Candidate TKI, is an Indonesian citizen qualifying as a job seeker who is going to work abroad and is registered at the regental/municipal government institution in charge of labor affairs.
3. TKI placement is a service of matching TKI according to his or her talent, interest, and ability with an employer in a foreign country that covers the entire process of recruitment, document processing, education and training, accommodation, preparations for departure, departure up to arrival at the destination country, and repatriation from the destination country.
4. TKI protection is any effort to protect the interests of Candidate TKI/TKI in guaranteeing fulfillment of his or her rights in accordance with the laws, before, during, or after employment.
5. Private TKI Placement Operator is a body corporate, which has obtained written licenses from the government to operate services of overseas TKI placement.
6. Business Partner is an institution or business entity in the form of a body corporate in the destination country responsible for placement of TKI at the User.

7. TKI Service User, hereinafter referred to as User, is a government institution, state body corporate, private body corporate, and/or individual in the destination country who employs a TKI.
8. Placement Cooperation Agreement is a written agreement between a Private TKI Placement Operator and a Business Partner or User setting out the rights and obligations of each party in the framework of TKI placement and protection in the destination country.
9. TKI Placement Agreement is a written agreement between a Private TKI Placement Operator and a Candidate TKI setting out the rights and obligations of each party in the framework of TKI placement in the destination country in accordance with the laws.
10. Employment Agreement is a written agreement between a TKI and the User containing employment conditions, rights and obligations of each party.
11. Foreign Worker Card, hereinafter referred to as KTKLN, is an identity card for TKI who has met the conditions and procedure for working abroad.
12. Work Permit is a written license given by the competent official at the embassy of a country containing approval to enter and to work in the country in question.
13. License for TKI Placement, hereinafter referred to as SIPPTKI, is a written license issued by the Minister to the company, which will act as a private TKI placement operator.
14. Operating License, hereinafter referred to as SIP, is a license issued by the government to a private TKI placement operator to recruit candidate TKI from certain regions, for certain positions, and for employment by certain Users within a certain time.
15. Individual is an individual person or body corporate.
16. Government is the instruments of the Unitarian State of the Republic of Indonesia consisting of the President and the Ministers.
17. Minister is the minister in charge of labor affairs.

## Article 2

Placement and protection of candidate TKI/TKI shall be based on the principles of integrity, equal rights, democracy, social justice, gender equality and justice, anti-discrimination, and anti-human trade.

## Article 3

Placement and protection of candidate TKI/TKI shall have the following purposes:

- a. To empower workers optimally and humanely;
- b. To guarantee and protect candidate TKI/TKI in the local country, in the destination country, until their return to their place of origin in Indonesia;

- c. To improve the welfare of TKI and their families.

#### Article 4

Individual persons shall not place Indonesian citizens to work abroad.

### CHAPTER II DUTIES, RESPONSIBILITIES, AND OBLIGATIONS OF THE GOVERNMENT

#### Article 5

- (1) The government shall regulate, develop, operate, and supervise overseas TKI placement and protection.
- (2) In performing the duties as set forth in paragraph (1), the government may delegate part of its authorities and/or duties to the Local Government in accordance with the laws.

#### Article 6

The government shall have the responsibility of promoting the protection of TKI abroad.

#### Article 7

In performing the duties and responsibilities as set forth in Articles 5 and 6, the government must:

- a. guarantee the fulfillment of rights of candidate TKI/TKI, either those departing through TKI placement operators, or departing independently;
- b. supervise the placement of candidate TKI;
- c. establish and develop an information system for the overseas placement of candidate TKI;
- d. make diplomatic efforts to guarantee the optimum fulfillment of rights and protection of TKI in the destination country; and
- e. give protection to TKI before departure, during placement, and after placement.

### CHAPTER III RIGHTS AND OBLIGATIONS OF TKI

#### Article 8

Every candidate TKI/TKI shall have equal rights and opportunities to:

- a. work abroad;
- b. obtain the correct information on the job market in foreign countries and the procedure for overseas TKI placement;
- c. receive equal service and treatment in overseas placement;

- d. receive freedom to embrace religion and beliefs and opportunities to perform worship in accordance with his or her religions or beliefs;
- e. receive a wage according to the applicable wage standard in the destination country;
- f. receive equal rights, opportunities, and treatment as other foreign workers in accordance with the laws of the destination country;
- g. receive guaranteed legal protection in accordance with the laws on any act that may degrade their dignity and humanity and violations of rights stipulated in the laws and regulations during overseas placement;
- h. receive guaranteed protection, safety, and security in the TKI repatriation to his or her place of origin;
- i. obtain the original copy of the employment agreement.

#### Article 9

Every candidate TKI/TKI shall have the following obligations:

- a. To obey the laws in the country of origin or in the destination country;
- b. To honor and perform work in accordance with the employment agreement;
- c. To pay the cost of overseas TKI placement in accordance with the laws; and
- d. To notify or report his or her departure, whereabouts, and repatriation to the Indonesian Embassy in the destination country.

### CHAPTER IV OPERATORS OF OVERSEAS TKI PLACEMENT

#### Article 10

The operators of overseas TKI placement shall consist of:

- a. The government;
- b. Private TKI placement operators.

#### Article 11

- (1) Overseas TKI placement by the Government as set forth in Article 10 paragraph a, may only be done based on a written agreement between the Government and the Government of the TKI User's country or a body corporate User in the destination country.
- (2) The provisions on the procedure for TKI placement by the Government as set forth in paragraph (1), shall be further stipulated with a Government Regulation.

#### Article 12

Companies which will act as private TKI placement operators as set forth in Article 10 paragraph b must obtain a written license in the form of SIPPTKI from the Minister.

#### Article 13

- (1) To qualify for a SIPPTKI as set forth in Article 12, private TKI placement operators must meet the following conditions:
  - a. Limited liability company duly established under the laws and regulations;

- b. Having authorized capital as set forth in the company's deed of establishment of at least three billion rupiah (Rp 3,000,000,000.00);
  - c. Having paid a deposit to the bank as security in the amount of five hundred million rupiah (Rp 500,000,000.00) at a state bank;
  - d. Having a work plan for overseas TKI placement and protection at least for at least three (3) ongoing years;
  - e. Having a job training unit; and
  - f. Having facilities and infrastructure for TKI placement services.
- (2) As circumstances develop, the amount of paid-up capital as set forth in paragraph (1) point b and security in the form of a deposit as set forth in paragraph (1) point c may be reviewed and amended with a Regulation of the Minister.
- (3) The provisions on the arrangement of the work plan as set forth in paragraph (1) point d, and the forms and standards that must be fulfilled for facilities and infrastructure of TKI placement services as set forth in paragraph (1) point f, shall be further stipulated with a Regulation of the Minister.

#### Article 14

- (1) License for overseas TKI placement shall be given for a period of five (5) years and may be extended once in every five (5) years.
- (2) Extension of the license as set forth in paragraph (1) may be granted to private TKI placement operators who have fulfilled the requirements as set forth in Article 13 paragraph (1) as well as the following:
- a. Having fulfilled their obligation to submit periodic reports to the Minister;
  - b. Having performed placement for at least seventy-five percent (75%) of the planned placement when obtaining SIPPTKI;
  - c. Still having facilities and infrastructure in accordance with the designated standards;
  - d. Having a balance sheet not indicating any losses for the last two (2) years as audited by a public accountant;
  - e. Not being under temporary suspension.

#### Article 15

Procedure of the issuance and extension of SIPPTKI as set forth in Articles 12, 13, and 14 shall be stipulated with a Regulation of the Minister.

#### Article 16

The deposit may only be disbursed in the event that a private TKI placement operator has failed to fulfill its obligations to the candidate TKI/TKI as agreed in the placement agreement.

#### Article 17

- (1) Private TKI placement operator must increase the cost of dispute settlement of candidate TKI/TKI if the deposit amount being used is insufficient.
- (2) The government shall return the deposit to the private TKI placement operator if the SIPPTKI has expired and is no longer extended or if it has been revoked.

- (3) The provisions on the payment, utilization, liquidation, and return of the deposit as set forth in paragraphs (1) and (2), shall be further stipulated with a Regulation of the Minister.

#### Article 18

- (1) The Minister may revoke SIPPTKI if a private TKI placement operator:
  - a. no longer complies with the conditions as set forth in Article 13; or
  - b. has failed to fulfill its obligations and responsibilities and/or has violated the prohibitions in the overseas TKI placement and protection as stipulated in this Law.
- (2) The revocation of SIPPTKI by the Minister as set forth in paragraph (1) shall not prejudice the responsibilities of the private TKI placement operators to TKI who have been placed and are still abroad.
- (3) Procedure of the revocation of SIPPTKI as set forth in paragraph (1) shall be further stipulated with a Regulation of the Minister.

#### Article 19

Private TKI placement operator shall not assign or transfer its SIPPTKI to any other parties.

#### Article 20

- (1) To represent its interests, the private TKI placement operator must have a representative in the country where the TKI are placed.
- (2) The representative as set forth in paragraph (1) must be a body corporate established pursuant to the laws of the destination country.

#### Article 21

- (1) Private TKI placement operator may open branch offices in the regions outside the domicile of its headquarters.
- (2) Activities operated by the branch offices as set forth in paragraph (1) shall be the responsibility of the headquarters of the private TKI placement operator.
- (3) The provisions on the procedure for opening the branch offices as set forth in paragraphs (1) and (2), shall be further stipulated with a Regulation of the Minister.

#### Article 22

Private TKI placement operators may only delegate authorities to the branch offices to:

- a. Perform elucidation and data taking of candidate TKI;
- b. Register and select the candidate TKI;
- c. Settle any cases of candidate TKI/TKI before or after placement; and
- d. Sign placement agreements with candidate TKI on behalf of the private TKI placement operator.

#### Article 23

All activities conducted by the branch offices as set forth in Article 22, shall be the responsibility of the private TKI placement operator.

#### Article 24

- (1) TKI placement at an individual User must be through the Business Partner in the destination country.
- (2) The business partner as set forth in paragraph (1) must be a body corporate established in accordance with the laws of the destination country.

#### Article 25

- (1) The Indonesian Embassy shall evaluate the Business Partner and the User as set forth in Article 24.
- (2) Result of the evaluation on the Business Partner and the User as set forth in paragraph (1), shall be used by the Indonesian Embassy in giving approval on the documents required for overseas TKI placement.
- (3) Based on the result of evaluation on the Business Partner and the User as set forth in paragraph (2), the Indonesian Embassy shall stipulate the black-listed Business Partners and Users in a black list of Business Partners and Users.
- (4) The government shall publish the black list of Business Partners and Users once every three (3) months.
- (5) The provisions on the procedure for evaluation and determination of blacklisted or non-blacklisted Business Partners and Users as set forth in paragraphs (1) and (3), shall be further stipulated with a Government Regulation.

#### Article 26

- (1) Other than the Government and private TKI placement operators as set forth in Article 10, companies may place TKI abroad for their own interests upon written permission from the Minister.
- (2) Overseas TKI placement for the own interest of the company as set forth in paragraph (1), must fulfill the following conditions:
  - a. The company in question must be a body corporate established under Indonesian laws;
  - b. The placed TKI must be an employee of the company;
  - c. The company must have evidence of an ownership or employment agreement acknowledged by the Indonesian Embassy;
  - d. The TKI has executed an employment agreement;
  - e. The TKI is included in a social security program for workers and/or has an insurance policy;
  - f. The placed TKI must possess a KTKLN.



- (3) The provisions on overseas TKI placement for the own interest of the company as set forth in paragraphs (1) and (2), shall be further stipulated with a Regulation of the Minister.

## CHAPTER V PLACEMENT PROCEDURE

### Part One General

#### Article 27

- (1) Overseas TKI placement may only be done to destination countries whose governments have signed an agreement with the Indonesian government or in destination countries having laws to protect foreign workers.
- (2) Based on the consideration referred to in paragraph (1), and for security reasons, the government shall designate certain countries to be closed for TKI placement with a Regulation of the Minister.

#### Article 28

TKI Placement in certain jobs and positions shall be further stipulated with a Regulation of the Minister.

#### Article 29

- (1) Overseas placement of candidate TKI/TKI shall be directed to the appropriate occupations in accordance with their expertise, skill, talent, interest, and ability.
- (2) Placement of candidate TKI/TKI as set forth in paragraph (1) shall be done in observance of dignity, humanity, human rights, legal protection, equal work opportunities, and availability of workers by putting national interest on priority.

#### Article 30

No person shall place a candidate TKI/TKI in an occupation or place of employment in violation of humanity and moral values and the laws of either Indonesia or the destination country or in a destination country already declared as closed as set forth in Article 27.

### Part Two TKI Pre-Placement

#### Article 31

TKI Pre-placement shall include the following activities:

- a. SIP processing;
- b. recruitment and selection;
- c. education and job training;
- d. health and psychological check;
- e. document processing;
- f. competence evaluation;

- g. final pre-departure briefing (PAP); and
- h. departure.

#### Paragraph 1 Recruitment License

##### Article 32

- (1) Private TKI placement operators who is going to undertake recruitment must possess an SIP from the Minister.
- (2) To obtain an SIP, the private TKI placement operators must have:
  - a. a placement cooperation agreement;
  - b. letter of request for TKI from Users;
  - c. draft placement agreements; and
  - d. draft employment agreements.
- (3) The letter of request for TKI from Users, placement cooperation agreements, and draft employment agreements as set forth in paragraph (2) letters a, b, and d must be approved by the authorized official at the Indonesian embassy in the destination country.
- (4) The procedure for SIP issuance shall be further stipulated with a Regulation of the Minister.

##### Article 33

No private TKI placement operators shall assign or transfer its SIP to any other party for recruitment of candidate TKI.

#### Paragraph 2 Recruitment and Selection

##### Article 34

- (1) Recruitment shall be started with the supplying of information to candidate TKI at least regarding:
  - a. the recruitment procedure;
  - b. the required documents;
  - c. the rights and obligations of candidate TKI/TKI;
  - d. the situation, condition, and risks in the destination country; and
  - e. the TKI protection procedure.
- (2) The information as set forth in paragraph (1) shall be revealed fully and correctly.
- (3) The information as set forth in paragraphs (1) and (2) must be approved by the institution in charge of labor affairs and must be conveyed by the private TKI placement operators.

##### Article 35

Candidate TKI recruitment by private TKI placement operators must be done on candidate TKI who have fulfilled the following requirements:

- a. is at least eighteen (18) years of age except for candidate TKI who will be employed by individual Users, who should be at least twenty one (21) years of age;
- b. is of sound physical and mental health;
- c. is not pregnant (for female workers);
- d. graduated from at least Secondary School (SLTP) or similar.

#### Article 36

- (1) Job seekers who are interested to work abroad must register with the Regental/Municipal Government for labor affairs.
- (2) The registration of the job seekers as set forth in paragraph (1) shall be done in accordance with the Regulation of the Minister.

#### Article 37

Recruitment shall be performed by private TKI placement operators on the job seekers registered with the Regental/Municipal Government for labor affairs as set forth in Article 36 paragraph (1).

#### Article 38

- (1) Private TKI placement operators shall prepare and sign placement agreements with the job seekers declared to have completed the administrative requirements in the recruitment process.
- (2) The placement agreements as set forth in paragraph (1) shall be acknowledged by the institution in charge of labor affairs in the Regency/Municipality.

#### Article 39

All costs for the candidate TKI recruitment shall be borne by the private TKI placement operator.

#### Article 40

Rules on the TKI recruitment procedure shall be further stipulated with a Regulation of the Minister.

### Paragraph 3 Education and Training

#### Article 41

- (1) Candidate TKI must possess a certificate of competence according to the job requirement.
- (2) In case that the TKI does not possess the certificate of competence as set forth in paragraph (1), the private TKI placement operators must conduct education and training according to the work to be performed.

#### Article 42

- (1) Candidate TKI shall have the right to receive education and training according to the work to be performed.
- (2) The education and training as set forth in para graph (1) are intended:
  - a. to equip, promote, and develop competence of the candidate TKI;
  - b. to provide knowledge and understanding of the situation, conditions, traditions, culture, religion, and risks of working abroad;
  - c. to equip the candidate TKI with communication skill in the language of the destination country;
  - d. to provide knowledge and understanding of the rights and obligations of candidate TKI/TKI.

#### Article 43

- (1) Education and training shall be conducted by the private TKI placement operator or a qualified training institution.
- (2) The education and training as set forth in paragraph (1) must meet the qualifications in accordance with the laws on educations and trainings.

#### Article 44

Candidate TKI shall obtain a certificate of competence after attending education and training organized by the education and training institution accredited by the authorized institution if he or she has passed the work competence evaluation.

#### Article 45

Private TKI placement operators shall not place a candidate TKI who has not passed the work competence evaluation.

#### Article 46

Candidate TKI who are undergoing training and education may not be employed.

#### Article 47

The provisions on education and training shall be further stipulated with a Regulation of the Minister.

#### Paragraph 4 Health and Psychological Check

#### Article 48

Health and psychological check on candidate TKI is intended to identify the health and psychological preparedness and suitability of personalities of the candidate TKI with the job that will be undertaken in the destination country.

#### Article 49

- (1) Every candidate TKI must undergo a health and psychological check conducted by a health facility or institution organizing psychological test, appointed by the government.

- (2) The provisions on the arrangement of health and psychological check on candidate TKI and appointment of the health facilities and institutions organizing psychological check as set forth in paragraph (1), shall be further stipulated with a Regulation of the President.

#### Article 50

Private TKI placement operators shall not place any candidate TKI who are not meeting the health and psychological requirement.

#### Paragraph 5 Document Processing

#### Article 51

For overseas placement, candidate TKI must have the following documents:

- a. identity card, diploma of latest education, birth certificate, or certificate of identified birth;
- b. certificate of marital status; those are married must submit a copy of the marriage book;
- c. letter of permission from spouse, parents, or guardian;
- d. certificate of competence;
- e. health certificate based on the result of the health and psychological check;
- f. passport issued by the local immigration office;
- g. work permit;
- h. TKI placement agreement;
- i. employment agreement, and
- j. KTKLN.

#### Article 52

- (1) TKI placement agreement as set forth in Article 51 paragraph h shall be made in writing and signed by the candidate TKI and private TKI placement operator after the candidate TKI has been selected in the recruitment process.
- (2) The TKI placement agreement as set forth in paragraph (1) shall at least contain:
  - a. name and address of private TKI placement operator;
  - b. name, sex, age, marital status, and address of candidate TKI;
  - c. name and address of future User;
  - d. rights and obligations of both parties in the framework of overseas TKI placement in accordance with the agreements and requirements stipulated by the future User as set forth in the placement cooperation agreement;
  - e. job title and type of the candidate TKI according to the User's request;
  - f. guarantee by the private TKI placement operator to the candidate TKI in event that the User fails to meet its obligations to the TKI in accordance with the employment agreement;
  - g. time of departure of the candidate TKI;
  - h. cost of placement to be borne by the candidate TKI and the method of payment;
  - i. dispute settlement responsibilities;

- j. consequence for any violation of placement agreement by either party; and
  - k. signatures of both parties in the TKI placement agreement.
- (3) The provisions of in the TKI placement agreement as set forth in paragraph (2) shall not be in contradiction with the laws.
  - (4) The TKI placement agreement as set forth in paragraphs (1) and (2) shall be made at least in two (2) duly stamped counterparts, and each party shall obtain one (1) original copy of the placement agreement, and each counterpart shall have equal legal power.

#### Article 53

The TKI placement agreement may not be withdrawn and/or amended, except with the agreement of both parties.

#### Article 54

- (1) Private TKI placement operators must report every TKI placement agreement to the regental/municipal government institution in charge of labor affairs.
- (2) The report as set forth in paragraph (1) shall be enclosed with a copy or duplicate of the placement agreement.

### Part Three Employment Agreement

#### Article 55

- (1) Employment relationship between the User and TKI shall be effective after the employment agreement is agreed and signed by both parties.
- (2) Every TKI must sign an employment agreement before he or she is dispatched abroad.
- (3) The employment agreement shall be signed before an official of the institution in charge of labor affairs.
- (4) The employment agreement as set forth in paragraph (2) shall be prepared by the private TKI placement operator.
- (5) The employment agreement as set forth in paragraphs (2) and (3) shall at least contain:
  - a. name and address of the User;
  - b. name and address of the TKI;
  - c. job title or job type of the TKI;
  - d. rights and obligations of both parties;
  - e. work terms and conditions consisting of work hours, wage and wage payment method, entitled leave and break time, facilities and social security; and
  - f. duration of employment agreement.

#### Article 56

- (1) The employment agreement shall be valid for up to two (2) years and may be extended for up to two (2) years, at the latest.
- (2) Certain occupations and jobs shall be exempted from the provision regarding duration of employment agreement as set forth in paragraph (1).
- (3) The provisions on the certain occupations or jobs exempted from the provisions regarding duration of employment agreement as set forth in paragraph (2) shall be further stipulated with a Regulation of the Minister.

#### Article 57

- (1) Extension of the duration of the employment agreement as set forth in Article 56 paragraph (1) may be done by the TKI in question or through the private TKI placement operator.
- (2) The extension of the duration as set forth in paragraph (1) must be agreed to by both parties at least three (3) months before the expiration of the first employment agreement.

#### Article 58

- (1) The employment agreement and the extended duration thereof must be approved by the authorized official at the Indonesian Embassy in the destination country.
- (2) The process for obtaining the approval as referred to in paragraph (1) shall be undertaken by and be the responsibility of the private TKI placement operator.
- (3) The provisions regarding the conditions and procedure for obtaining the approval as set forth in paragraphs (1) and (2) shall be further stipulated with a Regulation of the Minister.

#### Article 59

TKI employed by an Individual User whose employment agreement has expired and will be extended must first return to Indonesia.

#### Article 60

In the event that the extension is done by the TKI in question, the private TKI placement operator shall not be responsible for any risks incurred on the TKI during the extension of the employment agreement.

#### Article 61

For TKI employed by an Individual User, if over the duration of the employment agreement there is any change in job title or job type or User, the representative of the private TKI placement operator must arrange the amendment to the employment agreement by making a new employment agreement and reporting the matter to the Indonesian Embassy.

#### Article 62

- (1) Every TKI who is placed overseas must have a KTKLN issued by the government.
- (2) The KTKLN as set forth in paragraph (1) shall be used as the identity card of the TKI during his or her placement in the destination country.

#### Article 63

- (1) The KTKLN as set forth in Article 62 may only be issued if the TKI concerned:
  - a. has submitted the full required documents for overseas TKI placement;
  - b. has attended Final Pre-Departure Briefing (PAP); and
  - c. is covered by an insurance program.
- (2) The provisions regarding the form, requirements and procedure for obtaining KTKLN shall be further stipulated with a Regulation of the Minister.

#### Article 64

Private TKI placement operators shall not place any candidate TKI who do not have a KTKLN.

#### Article 65

Private TKI placement operators shall be responsible for the comprehensiveness of the required placement documents.

#### Article 66

The government must establish service posts equipped with adequate facilities at TKI departure and repatriation ports.

#### Article 67

- (1) Private TKI placement operators must despatch TKI who have submitted all of the required documents as set forth Article 51 in accordance with the placement agreement as set forth in Article 52 paragraph (2).
- (2) Private TKI placement operators must report every despatch of candidate TKI to the Indonesian Embassy in the destination country.
- (3) The despatch of TKI abroad as set forth in paragraph (1) shall be done through the nearest immigration checks.

#### Article 68

- (1) Private TKI placement operators must include the departing TKI in an insurance coverage.
- (2) The type of insurance coverage in which the TKI must participate as set forth in paragraph (1) shall be further stipulated with a Regulation of the Minister.

#### Article 69



- (1) Private TKI placement operators must include any TKI who is going to be despatched abroad in the final pre-departure briefing.
- (2) The final pre-departure briefing (PAP) is intended to provide an understanding and knowledge of:
  - a. the laws of the destination country;
  - b. the contents of the employment agreement.
- (3) The final pre-departure briefing (PAP) shall be the responsibility of the Government.
- (4) The provisions on the final pre-departure briefing (PAP) as set forth in paragraphs (1), (2), and (3) shall be further stipulated with a Regulation of the Minister.

#### Part Four Wait Time at Temporary Accommodation

##### Article 70

- (1) Private TKI placement operators may accommodate candidate TKI before departure.
- (2) The duration of accommodation shall be adjusted to the occupation and/or job that will be performed in the destination country.
- (3) During accommodation, private TKI placement operators must treat candidate TKI properly and humanly,
- (4) The provisions on the standards of the accommodation places and duration shall be further stipulated with a Regulation of the Minister.

#### Part Five Placement Time

##### Article 71

- (1) Every TKI must report his or her arrival to the Indonesian Embassy in the destination country.
- (2) The mandatory reporting of arrival as set forth in paragraph (1) for TKI employed by an Individual User shall be carried out by the private TKI placement operator.

##### Article 72

Private TKI placement operators shall not place any TKI who does not suit the job as referred to in the employment agreement made and signed by the TKI concerned.

#### Part Six Post-Placement

##### Article 73

- (1) TKI may be repatriated as a result of:

- a. expiration of the employment agreement;
  - b. termination of employment relationship prior to the expiration of the employment agreement;
  - c. a war, natural disaster, or epidemic in the destination country;
  - d. a workplace accident that has rendered him or her no longer capable of performing his or her work;
  - e. death in the destination country;
  - f. being on leave;
  - g. deportation by the local government.
- (2) In the event that a TKI passes away in the destination country as referred to in paragraph (1) letter e, the TKI placement operator must:
- a. notify the death of the TKI to his or her family not later than three (3) times twenty-four (24) hours since the death was noted;
  - b. seek information regarding the cause of death and notify the official at the Indonesian Embassy and family members of the TKI concerned;
  - c. repatriate the body of the TKI to the place of origin properly and bear all the necessary costs, including the cost of funeral according to the religion of the TKI concerned;
  - d. arrange a funeral for TKI in the destination country at the approval of his or her family in accordance with the regulations applicable in the country in question;
  - e. give protection to all assets of the TKI on behalf of his or her family members; and
  - f. arrange the fulfillment of all due rights of TKI.
- (3) In case of war, natural disaster, epidemic or deportation as set forth in paragraph (1) clauses c and g, the Indonesian Embassy, National Agency for TKI Placement and Protection, the Government, and the Regional Government shall jointly arrange for the repatriation of TKI to his or her place of origin.

#### Article 74

- (1) Every TKI who is returning to Indonesia must report to the Indonesian embassy in the destination country.
- (2) Reporting for TKI employed by an Individual User shall be done by the private TKI placement operator.

#### Article 75

- (1) The repatriation of TKI from the destination country up to arrival at his or her place of origin shall be the responsibility of the TKI placement operator.
- (2) Arrangement for TKI repatriation as set forth in paragraph (1) shall includes:
  - a. granting facilities for TKI repatriation;
  - b. providing a health facility for TKI who are sick during repatriation; and
  - c. providing protection for TKI from any action by irresponsible parties that may harm the TKI during repatriation.
- (3) The government may arrange the repatriation of TKI.

- (4) Further provisions regarding the TKI repatriation as set forth in paragraphs (1), (2), and (3) shall be stipulated with a Regulation of the Minister.

## Part Seven Funding

### Article 76

- (1) Private TKI placement operators may only charge the cost of placement to candidate TKI for the following cost components:
- a. personal document processing;
  - b. health and psychological check; and
  - c. training and certification of competence.
- (2) Any cost beyond the cost referred to in paragraph (1) shall be further stipulated with a Regulation of the Minister.
- (3) The cost components as referred to in paragraphs (1) and (2) must be transparent and must comply with the principle of accountability.

## CHAPTER VI TKI PROTECTION

### Article 77

- (1) Every candidate TKI/TKI shall be entitled to protection in accordance with the laws.
- (2) The protection as set forth in paragraph (1) shall be provided from pre-placement, during placement, up to post-placement.

### Article 78

- (1) The Indonesian Embassy shall give protection to TKI abroad in accordance with the regulations and international laws and customs.
- (2) In the framework of overseas TKI protection, the government may stipulate an Attache for Labor Affairs position at certain Indonesian embassies.
- (3) The assignment of the Attache for Labor Affairs as set forth in paragraph (2) shall be done in accordance with the laws and regulations.

### Article 79

In the framework of providing protection during overseas TKI placement, the Indonesian Embassies shall carry out facilitation and supervision on private TKI placement operators and the TKI placed abroad.

### Article 80

- (1) Protection during the overseas TKI placement shall be carried out among other things by:

- a. providing legal assistance in accordance with the laws and regulations of the destination country and international laws and customs;
  - b. defending the fulfillment of rights in accordance with the employment agreements and/or the laws in the countries in which the TKI is placed.
- (2) The provisions on the provision of protection during overseas TKI placement as set forth in paragraph (1) shall be further stipulated with a Government Regulation.

#### Article 81

- (1) In order to protect candidate TKI/TKI, equal work opportunities and/or for the availability of workers in keeping with the national requirement, the government may suspend and/or prohibit overseas TKI placement for certain countries or TKI placement at certain positions abroad.
- (2) In suspending and/or prohibiting the TKI placement as referred to in paragraph (1), the government shall observe the advice and recommendations of the National Agency for TKI Placement and Protection.
- (3) The provisions regarding the suspension and prohibition of TKI placement as referred to in paragraph (1), shall be further stipulated with a Government Regulation.

#### Article 82

Private TKI placement operators shall be responsible for providing protection to candidate TKI/TKI in accordance with the placement agreement.

#### Article 83

Every candidate TKI/TKI working abroad either by private means or placed by a private TKI placement operator must attend a TKI facilitation and protection program.

#### Article 84

The TKI facilitation and protection program as referred to in Article 83 shall be further stipulated with a Government Regulation.

### CHAPTER VII DISPUTE SETTLEMENT

#### Article 85

- (1) In the event of dispute between the TKI and the private TKI placement operator regarding the execution of the placement agreements, both parties shall seek peaceful settlement by amicable negotiation.
- (2) In the event that settlement by amicable negotiation is not achieved, one or both parties may request assistance from the institution in charge of labor affairs of the regency/municipality, province, or the Government.

### CHAPTER VIII

## FACILITATION

### Article 86

- (1) The Government shall undertake facilitation on all activities relating to overseas TKI placement and protection.
- (2) In undertaking the facilitation as referred to in paragraph (1), the Government may engage private TKI placement operators, organizations, and/or the public.
- (3) The facilitation as referred to in paragraphs (1) and (2) shall be conducted in an integrated and coordinated manner.

### Article 87

Facilitation by the Government as referred to in Article 86, shall be performed in the following areas:

- a. information;
- b. human resource; and
- c. TKI protection.

### Article 88

Facilitation by the Government in the area of information as referred to in Article 87 paragraph a, shall be done by:

- a. setting up an integrated information system and network on the job market in foreign countries that can be accessed by the general public;
- b. providing information on the entire process and procedure for overseas TKI placement including possible risks during the overseas TKI placement.

### Article 89

Facilitation by the Government in the area of human resource as referred to in Article 87 paragraph b, shall be done by:

- a. promoting the quality of work expertise and/or skill of candidate TKI/TKI who will be placed abroad including foreign language communication skill;
- b. establishing and developing work training that suits the designated standards and requirements.

### Article 90

Facilitation by the Government in the area of TKI protection as referred to in Article 87 paragraph c, shall be done by;

- a. providing guidance and advocacy to TKI before placement, during placement, and after placement;
- b. facilitating the settlement of dispute between candidate TKI/TKI and User and/or TKI placement operator;
- c. arranging and publishing the list of black-listed Business Partners and Users periodically in accordance with the laws;

- d. entering into international cooperation in the framework of TKI protection in accordance with the laws.

#### Article 91

- (1) The government may extend an appreciation to the individuals or institutions that have performed a meritorious service in the facilitation of overseas TKI placement and protection.
- (2) The appreciation as referred to in paragraph (1) may be awarded in the form of a certificate of appreciation, money, and/or other forms.

### CHAPTER IX SUPERVISION

#### Article 92

- (1) Supervision of overseas TKI placement and protection shall be carried out by the institution in charge of labor affairs within the Government, Provincial Government, and Regental/Municipal Government.
- (2) Supervision of overseas TKI placement and protection shall be carried out by the Indonesian Embassy in the destination countries.
- (3) The implementation of the supervision as referred to in paragraphs (1) and (2) shall be further stipulated with a Government Regulation.

#### Article 93

- (1) The institution in charge of labor affairs at the Provincial Government and Regental/Municipal Government must report the result of supervision over overseas TKI placement and protection in their respective regions in accordance with their duties, functions, and authorities to the Minister.
- (2) The provisions on the procedure for the reporting as referred to in paragraph (1) shall be further stipulated with a Regulation of the Minister.

### CHAPTER X NATIONAL AGENCY FOR TKI PLACEMENT AND PROTECTION

#### Article 94

- (1) To guarantee and accelerate the realization of the objectives of overseas TKI placement and protection, integrated services and responsibilities shall be required.
- (2) To achieve the objective as referred to in paragraph (1), a National Agency for TKI Placement and Protection shall be established.
- (3) The National Agency for TKI Placement and Protection as referred to in paragraph (2) shall be a non-departmental government institution reporting to the President and having its legal seat in the State Capital.

#### Article 95

- (1) The National Agency for TKI Placement and Protection as referred to in Article 94 shall serve to implement the policies on overseas TKI placement and protection in a coordinated and integrated manner.
- (2) To perform the function as referred to in paragraph (1), the National Agency for TKI Placement and Protection shall have the following duties:
  - a. to carry out placement based on the written treaty between the Government and the Government of the TKI User country or body corporate User in the destination country as referred to in Article 11 paragraph (1);
  - b. to provide services, to coordinate, and to perform supervision of:
    - 1) documents;
    - 2) final pre-departure briefing (PAP);
    - 3) issue resolution;
    - 4) fund sources;
    - 5) departure up to repatriation;
    - 6) candidate TKI quality enhancement;
    - 7) information;
    - 8) TKI placement operator quality; and
    - 9) welfare promotion for TKI and their families.

#### Article 96

- (1) Members of the National Agency for TKI Placement and Protection shall consist of representatives of the related Government institutions.
- (2) In performing its duties, the National Agency for TKI Placement and Protection as referred to in Article 95 paragraph (2) may engage professionals.

#### Article 97

Further provisions regarding the establishment, functions, duties, organizational structure, and work procedure of the National Agency for TKI Placement and Protection shall be stipulated with a Regulation of the President.

#### Article 98

- (1) To achieve smoother TKI placement, the National Agency for TKI Placement and Protection shall establish a TKI Placement and Protection Service Post in the capital cities of the Provinces and/or at places of departure of TKI deemed necessary.
- (2) The TKI Placement and Protection Service Post as referred to in paragraph (1) shall have the task of facilitating the processing of all TKI placement documents.
- (3) The document processing service as referred to in paragraph (2) may be performed jointly with relevant institutions.

#### Article 99

- (1) The TKI Placement and Protection Service Post as referred to in Article 98 shall be under the supervision of and shall report to the Head of Agency.
- (2) The establishment procedure and organizational structure of the TKI Placement and Protection Service Post as referred to in paragraph (1) shall be further stipulated with a Decision of the Head of Agency.

## CHAPTER XI ADMINISTRATIVE SANCTIONS

### Article 100

- (1) The Minister shall impose an administrative sanction on any violation of Article 17 paragraph (1), Article 20, Article 30, Article 32 paragraph (1), Article 33, Article 34 paragraph (3), Article 38 paragraph (2), Article 54 paragraph (1), Article 55 paragraphs (2) and (3), Article 58 paragraphs (1) and (2), Article 62 paragraph (1), Article 67 paragraphs (1) and (2), Article 69 paragraph (1), Article 71, Article 72, Article 73 paragraph (2), Article 74, Article 76 paragraph (1), Article 82, Article 83, or Article 105.
- (2) The administrative sanctions as referred to in paragraph (1) shall take the form of:
  - a. written warning;
  - b. temporary suspension of part or all of TKI placement operations;
  - c. license revocation;
  - d. cancellation of candidate TKI departure; and/or
  - e. repatriation of TKI at own expense.
- (3) Further provisions on the administrative sanctions as referred to in paragraphs (1) and (2) shall be further stipulated with a Regulation of the Minister.

## CHAPTER XII INVESTIGATION

### Article 101

- (1) In addition to Indonesian Police investigators, certain Civil Servants of institutions of the Government, Provincial Government, and/or Regental/Municipal Government in charge of labor affairs shall be given a special authority to act as Investigators as referred to in Law Number 8 Year 1981 on Criminal Procedural Law, to perform investigation into criminal acts as set forth in this Law.
- (2) The Investigators as referred to in paragraph (1) shall be authorized:
  - a. to verify reports on criminal acts relating to TKI placement and protection;
  - b. to perform investigation into persons who are assumed to have committed a criminal act relating to TKI placement and protection;
  - c. to request information and evidence from persons or corporate bodies concerning a criminal act relating to TKI placement and protection;
  - d. to investigate into or seize any material or evidence in a criminal act relating to TKI placement and protection;



- e. to perform investigation into any letters and/or other documents on a criminal act relating to TKI placement and protection;
  - f. to request the assistance of experts in the investigation of a criminal act relating to TKI placement and protection;
  - g. to stop investigation if there is insufficient evidence of a criminal act relating to TKI placement and protection.
- (3) The authority of the Civil Servant Investigator as referred to in paragraph (2) shall be executed in accordance with Law Number 8 Year 1981 on Criminal Procedural Law.

## CHAPTER XIII CRIMINAL PROVISIONS

### Article 102

- (1) A penalty of imprisonment for at least two (2) years and up to ten (10) years and/or a monetary penalty of at least two billion rupiah (Rp 2,000,000,000.00) and up to fifteen billion Rupiah (Rp 15,000,000,000.00) shall be imposed on any person who:
- a. placed an Indonesian citizen to work abroad as referred to in Article 4;
  - b. placed TKI without the license as referred to in Article 12;
  - c. placed a candidate TKI at an occupation or workplaces that violated humanity and moral values as referred to in Article 30.
- (2) The criminal acts as referred to in paragraph (1) shall be classified as crimes.

### Article 103

- (1) A penalty of imprisonment for at least one (1) year and up to five (5) years and/or a monetary penalty of at least one billion rupiah (Rp 1,000,000,000.00) and up to five billion rupiah (Rp 5,000,000,000.00) shall be imposed on any person who:
- a. assigned or transferred SIPPTKI as referred to in Article 19;
  - b. assigned or transferred SIP to another party as referred to in Article 33;
  - c. recruited candidate TKI who did not meet the qualifications as referred to in Article 35;
  - d. placed TKI who failed the competence test as referred to in Article 45;
  - e. placed TKI who failed to meet the health and psychological qualifications as referred to in Article 50;
  - f. placed candidate TKI who did not have the documents as referred to in Article 51;
  - g. placed TKI overseas without any insurance coverage as referred to in Article 68; or
  - h. treated candidate TKI improperly and inhumanly during their accommodation as referred to in Article 70 paragraph (3).
- (2) The criminal acts as referred to in paragraph (1) shall be classified as crimes.

### Article 104

- (1) A penalty of imprisonment for at least one (1) month and up to one (1) year and/or a monetary penalty of at least one hundred million rupiah (Rp

100,000,000.00) and up to one billion rupiah (Rp 1,000,000,000.00) shall be imposed on any person who:

- a. placed TKI other than through a Business Partner as required in Article 24;
  - b. placed TKI abroad for the interest of own company without a written permission from the Minister as referred to in Article 26 paragraph (1);
  - c. employed candidate TKI who was undergoing education and training as referred to in Article 46;
  - d. placed TKI abroad who did not have a KTKLN, as referred to in Article 64; or
  - e. failed to despatch TKI who had fulfilled the required documents as referred to in Article 67.
- (2) The criminal acts as referred to in paragraph (1) shall be classified as violations.

#### CHAPTER XIV MISCELLANEOUS PROVISIONS

##### Article 105

- (1) TKI who is employed abroad individually must report to the Government institution in charge of labor affairs and to the Indonesian Embassy.
- (2) In addition to the documents required for working abroad, TKI who is employed abroad individually must possess a KTKLN.

##### Article 106

- (1) TKI who is employed working abroad individually shall be entitled protection.
- (2) The protection as referred to in paragraph (1) shall be provided by the Indonesian Embassy in accordance with the laws and regulations.

#### CHAPTER XV TRANSITORY PROVISIONS

##### Article 107

- (1) Private TKI placement operators who already possessed an overseas TKI placement license prior to the enforceability of this Law must adjust to the requirements stipulated in this Law not later than two (2) years as of the enforceability of this Law.
- (2) For private TKI placement operators who placed TKI prior to the enforceability of this Law, the adjustment time frame shall be effective as of the enforceability of this Law until the termination of employment agreement of the last placed TKI prior to the enforceability of this Law.
- (3) If a private TKI placement operator fails to adjust to the requirements as set forth in this Law within the period as set forth in paragraph (1), its license for private TKI placement operator shall be revoked by the Minister.

## Article 108

The establishment of the National Agency for TKI Placement and Protection as referred to in Article 94 paragraph (2) shall be carried out within not later than two (2) years of the enforceability of this Law.

## CHAPTER XVI CLOSING PROVISIONS

## Article 109

This Law shall come into force as from the date of its stipulation.

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

Enacted in Jakarta  
on October 18, 2004

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

sgd  
MEGAWATI SOEKARNOPUTRI

Promulgated in Jakarta  
on October 18, 2004

THE SECRETARY OF STATE OF  
THE REPUBLIC OF INDONESIA

sgd  
BAMBANG KESOWO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2004 NUMBER 133

Issued as a true copy

Deputy Cabinet Secretary  
Laws and Legislation Division  
sgd  
Lambock V. Nahattands

## ELUCIDATION OF

## LAW NUMBER 39 YEAR 2004 ON OVERSEAS TKI PLACEMENT AND PROTECTION

### I. GENERAL

Employment has a crucial meaning in human life to such an extent that every person needs employment. It can be viewed as a source of income for a person to meet the needs of him or herself and his or her family. It can also be viewed as a means of self-actualization so that a person will feel more valuable, either to him or herself, his or her family members, or his or her environment. Therefore, the right to employment is an intrinsic human right that must be upheld and respected.

The meaning and significance of employment for everybody is reflected in Article 27 paragraph (2) of the 1945 Constitution which states that every Indonesian citizen shall be entitled to decent employment and livelihood for humanity. In reality, however, limited employment opportunities domestically has driven many Indonesian citizens/TKI to seek employment abroad. From year to year, the number of Indonesians working abroad is increasing. The level of interest in working abroad and the number of TKI who are working abroad has a positive impact on one hand, namely solving some unemployment problems in Indonesia; on the other hand, however, there are possible risks of inhuman treatment towards the TKI.

The risks may be experienced by the TKI either during the departure process, during their overseas employment, or after repatriation to Indonesia. Thus, regulations to avoid or at least minimize such risk of inhuman treatment towards the TKI have to be issued.

Basically, the legal provisions needed in this matter are provisions that can regulate a proper placement service for the workers. Proper service means that it should be economical, fast, uncomplicated, and safe. Regulations that are in violation of such principles will result in illegal placements which will naturally result in less protection for the workers.

As the number of workers who desire to work abroad and the number of TKI employed abroad grow, so does the number of cases of inhuman treatment to TKI either locally or abroad. The cases related to such treatment are growing increasingly diverse and even develop into human trade, which can be classified as a crime against humanity.

So far, the laws that form the referential basis for overseas TKI placement and protection are Ordinance for the Mobilization of Indonesian People to Work Abroad (State Gazette Year 1987 Number 8) and Ministerial Decrees and their implementation regulations. The provisions in the ordinance are so simple/brief that they are not effective to address recent developments. The weak ordinance and the lack of a law regulating overseas TKI placement and protection have been addressed by arrangements in Ministerial Decrees and their implementation regulations.

With the promulgation of Law Number 13 Year 2003 on Labor Affairs, the Ordinance for the Mobilization of Indonesian People to Work Abroad was declared null and void and the overseas worker placement shall be mandated with a separate law. Regulation in a separate law is expected to encourage the formulation of legal norms protecting TKI from various exploitative acts and treatments from anybody.

Pursuant to Article 27 paragraph (2) of the 1945 Constitution, this Law must essentially provide protection to citizens who are going to exercise their right to employment, especially overseas employment, so that they will be able to obtain

worker placement services in a speedy and ready manner while placing due priority on worker safety either physically, morally, or their dignity on priority.

In relation with the government administration in Indonesia, overseas TKI placement and protection also concerns international relations. Thus, overseas TKI placement and protection should fall under the authority of the government. However, the government cannot act individually and therefore needs to engage the provincial or regental/municipal government and private institutions. On the other hand, since placement and protection of Indonesian workers are directly related to life and honor, which are most basic issues for a human being, the relevant private institutions must be capable either in terms of commitment, professionalism, or economy, and must be able to guarantee protection of basic rights of citizens working abroad.

Every worker employed abroad is an immigrant or foreigner in the country where he or she works. They may be employed in any area in the country, possibly in conditions that are beyond their assumption or expectation when they were still in their home country. Based on the above understanding, we must recognize that at first opportunity the best protection must come from the workers themselves, so we cannot avoid the need to impose certain limitations on workers who will be employed abroad. The main limitations are skill or education and minimum age allowed. The limitations are expected to minimize the possibility of TKI exploitation.

Fulfillment of the citizen's right to employment, as set forth in the 1945 Constitution, may be done by every citizen individually. This is more so with the ready access to information on overseas employment opportunities. The society groups which are able to utilize information technology will certainly have a relatively high education or skill level. Meanwhile, those with relatively poor education and skill, who are consequently usually employed in "menial" occupations or professions, will require a different arrangement from those with higher education and skill. They would need more government intervention in providing maximum service and protection.

Differences in service or treatment is not intended to discriminate one group of society from the other, but to enforce the citizen's right to decent employment and livelihood for humanity instead.

Therefore in this Law, the principles for TKI placement and protection are equal rights, justice, gender equality and non-discrimination.

As conveyed above the problems that generally arise in the placement involve human rights; therefore, the sanctions as set forth in this Law, are mostly criminal penalties. Even the non-fulfillment of a travel document requirement is classified as a crime. This is based on the point of view that a document is the basic evidence that a worker has met the qualifications for working abroad.

The absence of even one document carries a risk of the worker being unqualified or illegal for working in the country of placement. This condition makes such a worker vulnerable to inhuman or exploitative treatment in the destination country.

Considering the existing conditions and the laws, including Law Number 1 Year 1982 on Ratification of the Vienna Convention Year 1961 on Diplomatic Relations and Vienna Convention Year 1963 on Consular Relations, Law

Number 2 Year 1982 on Ratification of the Special Missions Convention of 1969, and Law Number 37 Year 1999 on International Relations, the Law on Overseas TKI Placement and Protection is formulated in the spirit of placing TKI in the appropriate occupation that suits their talent, interest, and ability and to protect the rights of TKI. This Law is therefore expected to serve as an instrument for TKI protection, either before placement, during placement, or during repatriation to Indonesia as well as an instrument for improving the welfare of TKI and their families.

## II. ARTICLE BY ARTICLE

### Article 1

Self-explanatory.

### Article 2

Self-explanatory.

### Article 3

Self-explanatory.

### Article 4

“Place Indonesian citizens” in this Article consists of intentionally facilitating or transporting or despatching Indonesian citizens to work for Users in foreign countries by collecting or not collecting fees from the TKI.

### Article 5

#### Paragraph (1)

Overseas TKI placement and protection shall be done in a balanced manner by the government and the public. To make it successful and effective, the government shall have to regulate, facilitate, and supervise its operations.

#### Paragraph (2)

Self-explanatory.

### Article 6

Self-explanatory.

### Article 7

Self-explanatory.

### Article 8

Self-explanatory.

### Article 9

Self-explanatory.

### Article 10

#### Paragraph a

Self-explanatory.

#### Paragraph b

Private TKI placement operator prior to the enforceability of this Law was called Indonesian Worker Services Company (PJTKI).

Article 11  
Self-explanatory.

Article 12  
Self-explanatory.

Article 13  
Paragraph (1)  
Letter a  
Self-explanatory.

Letter b  
Self-explanatory.

Letter c  
“Guarantee in the form of deposit” in the name of the Government is intended so that there will be a guarantee for the cost of dispute settlement of candidate TKI domestically and/or TKI and the User and/or private TKI placement operator or to settle any outstanding obligations and responsibilities of a private TKI placement operator due to their license being revoked or not extended or the TKI not being covered with insurance protection.

Letter d  
Self-explanatory.

Letter e  
Self-explanatory.

Letter f  
“Facilities and infrastructure of TKI placement services” include among others things proper accommodation places, training places, and offices.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Article 14  
Self-explanatory.

Article 15  
Self-explanatory.

Article 16  
Self-explanatory.

Article 17  
Self-explanatory.

Article 18  
Self-explanatory.

Article 19

The meaning of “assign or transfer SIPPTKI” is what is in practice frequently called “*jual bendera*” or “*numbang proses*”. If this is tolerated, it will be difficult to identify the responsible party in the event of any problems with the TKI concerned.

Article 20

Paragraph (1)

Establishment of representatives may be done collectively by several private TKI placement operators.

Paragraph (2)

Self-explanatory.

Article 21

Paragraph (1)

Branches may be established in the Provinces or Regencies/Municipalities as required.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Articles 22

Self-explanatory.

Article 23

Self-explanatory.

Article 24

Paragraph (1)

Individual User in this Article is a person employing TKI in such occupations as housekeeper, babysitter or caregiver for the elderly, driver, gardener. Such occupations are classified as employment in informal sector.

Paragraph (2)

Self-explanatory.

Article 25

Paragraph (1)

Self-explanatory.

Paragraph (2)

Approval of the Indonesian Embassy includes placement cooperation agreement, letter of request for TKI, and employment agreement.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.



- Paragraph (5)
  - Self-explanatory.
- Article 26
  - Paragraph (1)
    - Self-explanatory.
  - Paragraph (2)
    - Letter a
      - Self-explanatory.
    - Letter b
      - Self-explanatory.
    - Letter c
      - Self-explanatory.
    - Letter d
      - Self-explanatory.
    - Letter e
      - Insurance policy as referred to in this Letter shall at least be comparable to the Worker Social Security Program as set forth in the laws.
    - Letter f
      - Self-explanatory.
  - Paragraph (3)
    - Self-explanatory.
- Article 27
  - Paragraph (1)
    - Self-explanatory.
  - Paragraph (2)
    - The meaning of “security reasons” in this paragraph includes among war, natural disaster, or epidemic in a destination country.
- Article 28
  - The meaning of “certain jobs or positions/occupations” in this Article includes seaman.
- Article 29
  - Self-explanatory.
- Article 30
  - Self-explanatory.
- Article 31
  - Paragraph a
    - Self-explanatory.
  - Paragraph b
    - Self-explanatory.

Paragraph c

Training for candidate TKI may be organized by a training institution or training unit owned by a private TKI placement operator.

Paragraph d

Psychological check is intended so that the TKI will not have any psychological barriers in performing work in the destination country.

Paragraph e

Self-explanatory.

Paragraph f

Self-explanatory.

Paragraph g

Self-explanatory.

Paragraph h

Self-explanatory.

Article 32

Paragraph (1)

Self-explanatory.

Paragraph (2)

Letter a

Self-explanatory.

Letter b

“Letter of Request for TKI from User” in this letter is known as job order, demand letter, or *wakalah*.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 33

Self-explanatory.

Article 34

Paragraph (1)

Self-explanatory.

Paragraph (2)

To ensure that information can be received correctly by the public, an understandable language must be used.

Paragraph (3)  
Self-explanatory.

Article 35

Paragraph a  
In practice, TKI employed by an Individual User shall always have intense personal relations with the User, which may place the TKI at a vulnerable position to sexual harrassment. Considering this matter, such job will require a person with a mature personality and emotion to minimize the risk sexual harrassment.

Paragraph b  
Self-explanatory.

Paragraph c  
Self-explanatory.

Paragraph d  
Self-explanatory.

Article 36  
Self-explanatory.

Article 37  
The provisions of this Article mean that private TKI placement operators may not do recruitment through any Indonesian or foreign brokers or sponsor.

Article 38  
Self-explanatory.

Article 39  
Self-explanatory.

Article 40  
Self-explanatory.

Article 41  
Self-explanatory.

Article 42  
Paragraph (1)  
Self-explanatory.

Paragraph (2)  
Letter a  
Self-explanatory.

Letter b  
Self-explanatory.

Letter c  
The meaning of “foreign language communication skill” is to be able to use the common language used in the destination country.

Letter d

Self-explanatory.

Article 43

Self-explanatory.

Article 44

The meaning of “competence evaluation” is the process of granting a certificate of competence systematically and objectively through a competence test in accordance with the national and/or international standards of competence.

Article 45

Self-explanatory.

Article 46

Self-explanatory.

Article 47

Self-explanatory.

Article 48

Self-explanatory.

Article 49

Paragraph (1)

The health facility and institution organizing health and psychological check may be owned by the Central or Local Government and/or qualified private institutions meeting the qualifications in accordance with the laws.

Paragraph (2)

Self-explanatory.

Article 50

Self-explanatory.

Article 51

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Letter e

Self-explanatory.

Letter f

Passport shall be issued after obtaining recommendation from the institution in charge of labor affairs at the local Regency/Municipality.

Letter g  
Self-explanatory.

Letter h  
Self-explanatory.

Letter i  
Self-explanatory.

Letter j  
Self-explanatory.

## Article 52

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
Letter a  
Self-explanatory.

Letter b  
Self-explanatory.

Letter c  
Self-explanatory.

Letter d  
Self-explanatory.

Letter e  
Self-explanatory.

Letter f  
Guarantee as meant in this letter is a statement of intent by a private TKI placement operator to fulfill its promises to the candidate TKI placed.

For example, if in the placement agreement the private TKI placement operator promises that the candidate TKI will be paid a certain amount of money by the User, but the User fails to fulfill payment of such amount (which is, set forth in the employment agreement) in the future, the private TKI placement operator must pay the difference.

Similarly, if a candidate TKI is promised to be despatched on a certain date, but is not despatched by that date, the private TKI placement operator must pay compensation to the candidate TKI because of the delay.

With the insertion of the foregoing letters, private TKI placement operators are encouraged to seek and place candidate TKI with the appropriate User.

Letter g  
Self-explanatory.

Letter h

Self-explanatory.

Letter i

Self-explanatory.

Letter j

The placement agreement may set forth that if after placement the TKI fails to fulfill his or her promises in the employment agreement to the User, the private TKI placement operator must bear any damages due to a claim by the User as a result of the failure of the TKI in fulfilling his or her promises. It can be ruled in the placement agreement that any TKI who violates the employment agreement must pay compensation to the private TKI placement operator.

It can also be provided otherwise: if a private TKI placement operator fails to fulfill its promises to a TKI, the private TKI placement operator must pay compensation to the TKI.

Letter k

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 53

Self-explanatory.

Article 54

Self-explanatory.

Article 55

Self-explanatory.

Article 56

Self-explanatory.

Article 57

Self-explanatory.

Article 58

Self-explanatory.

Article 59

Self-explanatory.

Article 60

Self-explanatory.

Article 61

Self-explanatory.

Article 62  
Self-explanatory.

Article 63  
Self-explanatory.

Article 64  
Self-explanatory.

Article 65  
Self-explanatory.

Article 66  
Self-explanatory.

Article 67  
Self-explanatory.

Article 68  
Self-explanatory.

Article 69  
Self-explanatory.

Article 70  
Paragraph (1)  
Because the process of document arrangement or health check of candidate TKI needs a relatively long time, and considering that training are generally concentrated at certain locations, to accelerate TKI education and training of TKI, the TKI may stay at a place of accommodation.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Article 71  
Paragraph (1)  
In essence, the obligation to report oneself as a citizen staying in a foreign country is the responsibility of the individual. Considering the scattered placement locations, however, reporting may be done by the private TKI placement operator.

Paragraph (2)  
Self-explanatory.

Article 72  
TKI placement which does not suit the occupation as set forth in the employment agreement, for example a TKI is employed as a babysitter in the employment

agreement, the private TKI placement operator shall not place the TKI in any occupation other than as set forth in the employment agreement.

Article 73  
Self-explanatory.

Article 74  
Self-explanatory.

Article 75  
Self-explanatory.

Article 76  
Paragraph (1)  
Self-explanatory.

Paragraph (2)  
Every destination country or User may determine the conditions for employment of foreign workers in the destination country. Therefore, there are possible additional costs that shall be borne by the TKI. To prevent any candidate TKI from being imposed with excessive amount of costs, the cost components that can be added and the amount of costs should be charged to the candidate TKI.

Paragraph (3)  
Self-explanatory.

Article 77  
Self-explanatory.

Article 78  
Paragraph (1)  
Self-explanatory.

Paragraph (2)  
“Occupations of attaches for labor affairs at certain Indonesian embassies” shall be discussed and organized by the Minister in charge of international relations, the Minister of finance, the Minister for the empowerment of state apparatuses, and the Minister for labor affairs.

Paragraph (3)  
Self-explanatory.

Article 79  
Self-explanatory.

Article 80  
Self-explanatory.

Article 81  
Self-explanatory.

Article 82  
Self-explanatory.



Article 83  
Self-explanatory.

Article 84  
Self-explanatory.

Article 85  
Paragraph (1)  
Self-explanatory.

Paragraph (2)  
The meaning of “government” includes the National Agency for TKI Placement and Protection and the TKI Placement and Protection Service Agency.

Article 86  
Self-explanatory.

Article 87  
Self-explanatory.

Article 88  
Self-explanatory.

Article 89  
Self-explanatory.

Article 90  
Self-explanatory.

Article 91  
Self-explanatory.

Article 92  
Self-explanatory.

Article 93  
Self-explanatory.

Article 94  
Self-explanatory.

Article 95  
Self-explanatory.

Article 96  
Self-explanatory.

Article 97  
Self-explanatory.

Article 98  
Self-explanatory.

Article 99

Self-explanatory.

Article 100

Self-explanatory.

Article 101

Self-explanatory.

Article 102

Self-explanatory.

Article 103

Self-explanatory.

Article 104

Self-explanatory.

Article 105

Self-explanatory.

Article 106

Self-explanatory.

Article 107

Self-explanatory.

Article 108

Self-explanatory.

Article 109

Self-explanatory.

SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER  
4445

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#### NOTE

Source: LOOSE-LEAF STATE SECRETARIAT YEAR 2004