

MINISTER OF MANPOWER OF THE REPUBLIC OF INDONESIA
NUMBER 35 OF 2015
REGARDING
THE AMENDMENT OF MINISTER OF MANPOWER REGULATION NUMBER 16 OF
2015 REGARDING THE PROCEDURE FOR THE UTILIZATION OF EXPATRIATE
WORKERS

BY THE GRACE OF THE ONE ALMIGHTY GOD

MINISTRY OF MANPOWER

- Considering : a. whereas Minister of Manpower Regulation Number 16 of 2015 regarding the Procedure for the Utilization of Expatriate Worker is not appropriate with manpower development, thus it is necessary to make the amendment;
- b. whereas based on the consideration as referred to in letter a, it is necessary to stipulate Minister of Manpower Regulation regarding the Amendment on the Minister of Manpower Regulation Number 16 of 2015 regarding the Procedure for the Utilization of Expatriate Worker;
- In view of : 1. Law Number 3 of 1951 regarding the validity of Law regarding Labor Supervision of 1948 Number 23 of the Republic of Indonesia for the entire territory of Indonesia (State Gazette of the Republic of Indonesia Year 1951 Number 4);
2. Law Number 7 of 1981 regarding Mandatory Manpower Report (State Gazette of the Republic of Indonesia Year 1981 Number 39, Supplement of State Gazette of the Republic of Indonesia Number 3201)
3. Law Number 13 of 2003 regarding Manpower (State Gazette of the Republic of Indonesia Year 2003 Number 39, Supplement of State Gazette of the Republic of Indonesia Number 4279);
4. Law Number 39 of 2009 regarding Exclusive Economic Zone (State Gazette of the Republic of Indonesia Year 2009 Number 147, Supplement of State Gazette of the Republic of Indonesia Number 5066);
5. Law Number 6 of 2011 regarding Immigration (State Gazette of the Republic of Indonesia Year 2011 Number 52, Supplement of State Gazette of the Republic of Indonesia Number 5216);
6. Law Number 7 of 2011 regarding Currency (State Gazette of the Republic of Indonesia Year 2011 Number 64, Supplement of State Gazette of the Republic of Indonesia Number 5223);

7. Law Number 23 of 2014 regarding Regional Government (State Gazette of the Republic of Indonesia Year 2014 Number 244, Supplement of State Gazette of the Republic of Indonesia Number 5587);
8. Government Regulation Number 65 of 2012 regarding Types and Tariffs on Non Tax State Revenues Applicable in the Ministry of Manpower and Transmigration (State Gazette of the Republic of Indonesia Year 2012 Number 154, Supplement of State Gazette of the Republic of Indonesia Number 5333);
9. Government Regulation Number 97 of 2012 regarding Traffic Control Retribution and Extension Permits for Employing Expatriate Worker Retribution (State Gazette of the Republic of Indonesia Year 2012 Number 216, Supplement of State Gazette of the Republic of Indonesia Number 5358);
10. Presidential Regulation Number 72 of 2014 regarding Expatriate Worker Employment and the Implementation of Education and Training of Counterpart (State Gazette of the Republic of Indonesia Year 2014 Number 162);
11. Presidential Regulation Number 18 of 2015 regarding the Ministry of Manpower (State Gazette of the Republic of Indonesia Year 2015 Number 19);
12. Minister of Manpower Regulation Number 8 of 2015 regarding the Procedure for the Preparation of Legal Draft, Draft of Government Regulation and Draft of Ministerial Regulation in the Ministry of Manpower (State Gazette of the Republic of Indonesia Year 2015 Number 411);
13. Minister of Manpower Regulation Number 16 of 2015 regarding the Procedure for the Utilization of Expatriate Worker (State Gazette of the Republic of Indonesia Year 2015 Number 964);

HAS DECIDED:

To stipulate : THE AMENDMENT ON THE REGULATION OF MINISTER OF MANPOWER NUMBER 16 OF 2015 REGARDING THE PROCEDURE FOR THE UTILIZATION OF EXPATRIATE WORKER

Article I

Several provisions on Minister of Manpower Regulation Number 16 of 2015 regarding the Procedure for the Utilization of Expatriate Worker (State Gazette of the Republic of Indonesia Year 2015 Number 954) are amended as follows:

1. Article 3 is deleted.
2. 1 (one) Article is inserted between Article 4 and Article 5, namely Article 4A, thus it states as follows:

Article 4A

The Employer of Expatriate Worker (*Tenaga Kerja Asing* or "TKA") in the form of Domestic Capital Investment is prohibited to employ TKA with the position as Commissioner.

3. Provision of Article 16 is amended thus it is stated as follows:

Article 16

Expatriate Worker Utilization Plan (*Rencana Penggunaan Tenaga Kerja Asing* or "RPTKA") for a temporary work is granted for:

- a. creating of commercial film that has obtained license from the authorized institution;
 - b. conducting an audit, production quality control, or inspection in company's branches in Indonesia within the period of 1 (one) month;
 - c. work related to machinery installation, electrical, after-sales service, or product in business trial phase.
4. The provision of Article 37 is amended thus it is stated as follows:

Article 37

- (1) Every TKA employers must have Work Permit (*Izin Mempekerjakan Tenaga Kerja Asing* or "IMTA") issued by the Director.
 - (2) TKA who holds position as a member of the Board of Directors, Board of Commissioners or Board of Patrons, Board of Management and Board of Supervisors domiciled abroad is not required to possess an IMTA.
 - (3) The obligation to possess an IMTA as referred to in paragraph (1) is not applicable to foreign state representative who utilizes TKA as diplomatic and consular worker.
5. The provision of Article 40 paragraph (2) is deleted, thus the Article 40 is stated as follows:

Article 40

- (1) DKP-TKA as referred to in Article 38 paragraph (1) letter a is stipulated in the amount of US\$ 100 (one hundred) United States Dollars per-position/month for every TKA, which shall be paid in advance.
 - (2) Deleted.
 - (3) TKA Employers which employ TKA less than 1 (one) month shall pay DKP-TKA amount of 1 (one) full month.
 - (4) DKP-TKA Payment Form as referred to in paragraph (1) contains:
 - a. name of TKA employer;
 - b. name of TKA;
 - c. position of TKA;
 - d. utilization term of TKA;
 - e. amount paid.
 - (5) DKP-TKA payment as referred to in paragraph (1) is conducted by TKA employer and paid to the DKP-TKA account in a Government Bank designated by the Minister.
 - (6) DKPA-TKA as referred to in paragraph (1) is a Non-Taxed State Revenue (*Penerimaan Negara Bukan Pajak* or "PNBP")
6. The provision of Article 46 is amended thus it is stated as follows:

Article 46

- (1) IMTA for temporary work is granted for:
 - a. creating of commercial film that has obtained license from the authorized institution;
 - b. conducting an audit, production quality control, or inspection in company's branches in Indonesia within the period of 1 (one) month;
 - c. work related to machinery installation, electrical, after-sales service, or product in business trial phase.
 - (2) IMTA for temporary work is granted for a maximum period of 6 (six) months and cannot be extended.
7. The provision of Article 66 is amended thus it is stated as follows:

Article 66

TKA employer who employs TKA for the position of member of Board of Directors, member of Board of Commissioners or Board of Patrons, Board of Management and Board of Supervisors domiciled in Indonesia must possess an IMTA as of the

date of the issuance of the decree for the ratification of the establishment and/or amendment from the authorized institution.

8. 1 (one) article is inserted between Article 66 and Article 67, namely Article 66A thus it is stated as follows:

Article 66A

Further provision regarding accompaniment of Indonesian Worker (*Tenaga Kerja Indonesia* or "TKI") in the framework of transfer of technology and know-how is further regulated with a Directorate General Decree.

9. 1 (one) Chapter is inserted between CHAPTER XI and CHAPTER XII, namely CHAPTER XIA and between Article 66A and Article 67 is inserted with 1 (one) article, namely Article 66B, thus it is stated as follows:

Article 66B

Upon the ratification of this Minister Regulation, the TKA employer which has conducted payment for DKP-TKA pursuant to the Minister of Manpower Regulation No. 16 of 2015 regarding the Procedures for the Utilization of Expatriate Manpower for:

- a. member of Board of Directors, member of Board of Commissioners or Board of Patrons, Board of Management and Board of Supervisors domiciled abroad as referred in Article 37 paragraph (2);
- b. work that is temporary granted to provide assistance, counseling and training in the application and innovation of the technology industry to increase the quality and design of the product industry and the cooperation in cross-border marketing for Indonesia as referred in Article 46 paragraph (1) letter a, provide a lecture as referred in Article 46 paragraph (1) letter c, attending meetings held with the headquarter or representatives in Indonesia as referred in Article 46 paragraph (1) letter d, TKA under work probation period as referred in Article 46 paragraph (1) letter f, one time work as referred in Article 46 paragraph (1) letter g;

shall be irrevocable.

Article II

This Minister Regulation shall enter into force on the date of its enactment.

For public cognizance, the promulgation of this Ministerial Regulation in the Official Gazette of the Republic of Indonesia is hereby ordered.

Stipulated in Jakarta
on October 23, 2015

MINISTER OF MANPOWER
THE REPUBLIC OF INDONESIA,

signed

M. HANIF DHAKIRI

Ratified in Jakarta
on October 23, 2015

DIRECTOR GENERAL
LAWS AND REGULATIONS
MINISTRY OF LAW AND HUMAN RIGHTS
THE REPUBLIC INDONESIA,

signed,

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2015 NUMBER 1599

COPY AS ORIGINAL,
HEAD OF LEGAL BUREAU

