

REGULATION OF THE MINISTER OF MANPOWER OF
THE REPUBLIC OF INDONESIA
NUMBER 7 OF 2016
ON
SERVICE CHARGE IN HOTEL BUSINESS AND
RESTAURANT BUSINESS IN HOTEL

BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF MANPOWER OF THE REPUBLIC OF INDONESIA,

- Considering : that in order to implement the provisions of Article 10 section (3) of Government Regulation Number 78 of 2015 on Wages, it is necessary to establish Regulation of Minister of Manpower on Service Charge in Hotel Business and Restaurant Business in Hotel.
- Observing : 1. Law Number 3 of 1951 on the Statement Enactment Law of Labour Inspection of 1948 Number 23 of the Republic of Indonesia for All Indonesians (State Gazette of the Republic of Indonesia of 1951 Number 4)
2. Law Number 13 of 2003 on Manpower (State Gazette of the Republic of Indonesia of 2003 Number 39, Supplement to the State Gazette of the Republic of Indonesia Number 4279);
3. Government Regulation Number 78 of 2015 on Wages (State Gazette of the Republic of Indonesia of 2015 Number 237, Supplement to the State Gazette of the Republic of Indonesia Number 5747);

4. Presidential Regulation of the Republic of Indonesia Number 18 of 2015 on Ministry of Manpower (State Gazette of the Republic of Indonesia of 2015 Number 19);
5. Regulation of the Minister of Manpower Number 8 of 2015 on Preparation Procedures for Making Draft Law, Draft of Government Regulation and Draft Presidential Regulation and Making Draft Ministerial Regulation in Ministry of Manpower (State Bulletin of the Republic of Indonesia of 2015 Number 411);

HAS DECIDED:

To issue : REGULATION OF THE MINISTER OF MANPOWER ON SERVICE CHARGE IN HOTEL BUSINESS AND RESTAURANT BUSINESS IN HOTEL.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Ministerial Regulation:

1. Service Charge means additional tariffs that have been determined previously for the service in hotel business and restaurant business in hotel.
2. Hotel Business means business of accommodation provision in the form of rooms in a building, that may be complemented with foods and beverages service, entertainment and/or other facilities on a daily basis that aims for profit.
3. Restaurant Business in Hotel means business of foods and beverages provision completed with the equipment and supplies for the preparation, storage and serving processes in a hotel that aims for profit.
4. Employer means:
 - a. an individual, a partnership, or a legal entity that runs its own company;

- b. an individual, a partnership, or a legal entity that independently runs its a non-self-owned company;
 - c. an individual, a partnership, or a legal entity located in Indonesia and representing a company as referred to in point a and point b that is domiciled outside the territory of Indonesia.
5. Worker/Labourer means any person who works and receives wages or other forms of compensation.

Article 2

- (1) Service Charge means a non-wage income.
- (2) Employer that runs Hotel Business and Restaurant Business in Hotel may impose Service Charge.

CHAPTER II

COLLECTION, MANAGEMENT, AND DISTRIBUTION OF SERVICE CHARGE

Part One

General

Article 3

- (1) The Service Charge as referred to in Article 2 section (1) is given to Worker/Labourer who has employment relationship with the Employer based on the work agreement for non-specified time or specified time work agreement.
- (2) Worker/Labourer of a company that receives some jobs from Employer that runs Hotel Business and Restaurant Business in Hotel, is entitled to receive Service Charge.

Article 4

- (1) Worker/Labourer who has employment relationship is terminated before the distribution of Service Charge, is entitled to receive Service Charge that is calculated proportionally.

- (2) In the event that Worker/Labourer as referred to in section (1) is rehired, he/she is entitled to receive Service Charge since the time Worker/Labourer returns to work.
- (3) The Service Charge as referred to in section (2) is given proportionally to Worker/Labourer on the first month.

Article 5

- (1) Income tax on Service Charge that is individually received by Worker/Labourer is borne by the Worker/Labourer concerned.
- (2) Income tax deduction on Service Charge is conducted by Employer at the time of Service Charge distribution to Worker/Labourer.
- (3) The Employer gives the proof of tax payment to the State Treasury to Worker/Labourer in accordance with the legislation.

Part Two

Collection and Management of Service Charge

Article 6

The collection and management of Service Charge prior to its distribution are conducted by Employer.

Article 7

The management of Service Charge as referred to in Article 6 is conducted separately from the company operations.

Article 8

- (1) Employer announces the result of collection and management of Service Charge as referred to in Article 6 to Workers/Labourers.
- (2) The announcement as referred to in section (1) is made in writing and conducted monthly before the distribution of Service Charge.

Article 9

- (1) The Service Charge as referred to in Article 6 is used for:
 - a. compensation on the risk of loss or breakage;
 - b. empowerment of human resources quality improvement; and
 - c. being distributed to Workers/labourers.
- (2) The use of Service Charge as referred to in section (1) is determined as follow:
 - a. 3% (three percent) for the compensation on the risk of loss or breakage;
 - b. 2% (two percent) for the empowerment of human resources quality improvement; and
 - c. 95% (ninety-five percent) to be distributed to Workers/Labourers.

Article 10

- (1) In the event of percentage of compensation on the risk of loss or breakage as referred to in Article 9 section (2) point a and/or percentage of empowerment of human resources quality improvement as referred to in Article 9 section (2) point b are not fully used, an Employer and Workers/Labourers may determine the use for the residual percentage based on an agreement.
- (2) The use for the residual percentage as referred to in section (1) is adjusted with the use as referred to in Article 9 section (1).

Article 11

- (1) The risk of loss or breakage as referred to in Article 9 section (1) point a is the loss that might occur due to the loss or breakage of hotel equipment and restaurant equipment in hotel that is related with the guest service.
- (2) Type of hotel equipment and restaurant equipment in hotel as referred to in section (1) is determined by Employer and Workers/Labourers or Trade Union.

Article 12

Activity type of empowerment of human resources quality improvement as referred to in Article 9 section (1) point b is determined by an Employer and Workers/Labourers or Trade Union.

Part Three

Distribution of Service Charge

Article 13

Service Charge is required to be distributed to Worker/Labourer after it is deducted by the risk of loss or breakage and the empowerment of human resources quality improvement.

Article 14

- (1) The result of collection of Service Charge for 1 (one) calendar month after it is deducted by the risk of loss or breakage and the empowerment of human resources quality improvement, must be distributed to the entitled Workers/Labourers at the latest on 1 (one) next calendar month.
- (2) The distribution of Service Charge as referred to in section (1) is done according agreement between Employer and Worker/Labourer.

Article 15

- (1) The method of distribution of Service Charge as referred to in Article 13 is determined by Employer by taking into account equity principle and excellent service principle, that is 50% (fifty percent) to be distributed equally and the remainder is distributed based on seniority and job performance.
- (2) The Service Charge as referred to in section (1) may only be calculated after the Service Charge has been collected.

CHAPTER III
SUPERVISION

Article 16

The internal supervision on the management of Service Charge as referred to in Article 7 and Article 9 is conducted by the appointed representative of Employer and appointed representative of Workers/Labourers.

Article 17

Supervision on the implementation of this Ministerial Regulation is conducted by labour inspector.

CHAPTER IV
ADMINISTRATIVE SANCTIONS

Article 18

- (1) Employer that does not distribute Service Charge to Workers/Labourers as referred to in Article 13 is imposed by administrative sanctions.
- (2) The administrative sanctions as referred to in section (1) is imposed in accordance with the legislation.

CHAPTER V
TRANSITIONAL PROVISIONS

Article 19

Employer that manages Hotel Business and Restaurant Business in Hotel must comply with the provisions in this Ministerial Regulation at the latest 12 (twelve) months since its promulgation.

Article 20

Any Company that has implemented Service Charge better than this Ministerial Regulation has, its implementation may remain in effect based on the agreement between an Employer and Workers/Labourers or Trade Union.

CHAPTER VI
MISCELLANEOUS PROVISION

Article 21

An employer that has implemented service charge in restaurant business other than hotel restaurant and other tourism business, its implementation remains in effect insofar having been agreed by the Employer and Worker/Labourer.

CHAPTER VII
CLOSING PROVISIONS

Article 22

At the time this Ministerial Regulation comes into force, Regulation of the Minister of Manpower and Transmigration Number Per-02/MEN/1999 on Distribution of Service Charge in Hotels, Restaurants, and Other Tourism Business, is repealed and declared ineffective.

Article 23

This Ministerial Regulation comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Ministerial Regulation by its placement in the State Bulletin of the Republic of Indonesia.

Issued in Jakarta
on 8 March 2016

MINISTER OF MANPOWER OF
THE REPUBLIC OF INDONESIA,

signed

HANIF DHAKIRI

Promulgated in Jakarta
on 8 March 2016

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

signed

WIDODO EKATJAHJANA

STATE BULLETIN OF THE REPUBLIC OF INDONESIA OF 2016 NUMBER 376

Jakarta, 4 July 2018

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,


WIDODO EKATJAHJANA