

REGULATION OF THE MINISTER OF MANPOWER OF
THE REPUBLIC OF INDONESIA
NUMBER 20 OF 2016
ON
PROCEDURES FOR THE IMPOSITION OF ADMINISTRATIVE SANCTIONS IN
GOVERNMENT REGULATION NUMBER 78 OF 2015
ON
WAGES

BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF MANPOWER OF THE REPUBLIC OF INDONESIA,

Considering : that in order to implement the provisions of Article 59 section (3) of Government Regulation Number 78 of 2015 on Wages, it is necessary to issue a Regulation of the Minister of Manpower on Procedures for the Imposition of Administrative Sanctions in Government Regulation Number 78 of 2015 on Wages;

Observing : 1. Law Number 3 of 1951 on Statement of Enactment of Law on Labour Inspection of 1948 Number 23 from the Republic of Indonesia to All Indonesia (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. Law Number 23 of 2014 on Local Government (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587);
4. Law Number 30 of 2014 on Governmental Administration (State Gazette of the Republic of Indonesia of 2014 Number 292, Supplement to the State Gazette of the Republic of Indonesia Number 5601);
5. 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);
6. Presidential Regulation Number 18 of 2015 on Ministry of Manpower (State Gazette of the Republic of Indonesia of 2015 Number 19);
7. Regulation of the Minister of Manpower Number 8 of 2015 on Procedures for the Preparation of Making Draft Law, Draft Government Regulation and Draft Presidential Regulation and Making Draft Ministerial Regulation in the Ministry of Manpower (State Bulletin of the Republic of Indonesia of 2015 Number 411);

HAS DECIDED:

To issue : PROCEDURES FOR THE IMPOSITION OF ADMINISTRATIVE SANCTIONS IN GOVERNMENT REGULATION NUMBER 78 OF 2015 ON WAGES.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Ministerial Regulation:

1. Wage means right of worker/labourer that is received and stated in the form of money as a compensation from employer or entrepreneur to the worker/labourer which is set and paid in accordance with a work agreement,

consensus, or legislation, including allowance for worker/labourer and their family for a work and/or service which has been performed or will be performed.

2. Religious Holiday Allowance (*Tunjangan Hari Raya*), hereinafter referred to as Religious THR, means a non-wage that is required to be paid by Employer to Workers/Labourers or their families before the religious holiday.
3. Service Charge means an additional tariff that has been determined previously for the service in hotel businesses and restaurant businesses in hotel.
4. Wage Structure and Scale mean the composition of Wage levels from the highest to the lowest or from the lowest to the highest that contains the amount range of the lowest wage to highest wage in 1 (one) wage category.
5. Worker/Labourer means any person who works and receives wages or other forms of compensation.
6. 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 an company as referred to in point a and point b that is domiciled outside the territory of Indonesia.
7. Ministry means the central government institution that carries out the government affairs in the field of manpower.
8. Minister means the minister administering the government affairs in the field of manpower.

CHAPTER II

ADMINISTRATIVE SANCTIONS

Article 2

- (1) Administrative sanctions are in the form of:
 - a. written warning;

- b. restriction on business activities;
 - c. temporary termination of partial or whole production tools; and
 - d. freeze of the business activities.
- (2) The written warning as referred to in section (1) point a is a written warning for violation committed by an Employer against legislation that regulates on Wages.
- (3) The restriction on business activities as referred to in section (1) point b is an administrative sanction that covers:
- a. restriction on production capacity for goods and services at a certain time; and/or
 - b. a postponement of business license issuance in one or some locations for the company that has projects on several locations.
- (4) The temporary termination of partial or whole production tools as referred to in section (1) point c is an administrative sanction not to use partial or whole production tools for either goods or services at a certain time.
- (5) The freeze of business activities as referred to in section (1) point d is an administrative sanction to stop all production process of goods and services in the company at a certain time.

Article 3

- (1) The administrative sanctions as referred to in Article 2 are imposed on an Employer.
- (2) The administrative sanctions as referred to in section (1) are imposed upon the following actions:
- a. not paying Religious THR to Workers/Labourers;
 - b. not distributing Service Charge to Workers/Labourers;
 - c. not formulating a Wage Structure and Scale and inform all Workers/Labourers;
 - d. not paying a Wage until the period passes;
 - e. not fulfilling the obligation to pay a fine; and/or
 - f. deducting a Wage for more than 50% (fifty percent) of the Wage payment received by Workers/Labourers.
- (3) The actions as referred to in section (2) are violation.

Article 4

- (1) The imposition of administrative sanctions as referred to in Article 2 is conducted in accordance with the type of violation committed by an Employer.
- (2) The imposition of administrative sanctions as referred to in section (1) does not discharge Employer's obligation to pay the right of Workers/Labourers.

Article 5

- (1) Officials who are authorized to impose administrative sanctions consist of:
 - a. a Minister;
 - b. a concerned minister;
 - c. a governor;
 - d. a regent/mayor; or
 - e. appointed officials in accordance with their authority.
- (2) The appointed officials as referred to in section (1) point e, are:
 - a. officials in the Ministry based on the appointment from the Minister;
 - b. officials in a concerned ministry based on the appointment from the concerned minister;
 - c. a head of provincial office based on the appointment from the governor;
 - d. a head of regency/municipal office based on the appointment of a regent/mayor;
 - e. a head of central government institution or a head of local government institution who receives the delegation of an authority.
- (3) The officials who are authorized to impose administrative sanctions as referred to in section (1) and section (2) are officials who are authorized to issue a license.

CHAPTER III
PROCEDURES FOR THE IMPOSITION OF
ADMINISTRATIVE SANCTIONS

Part One
Inspection by Labour Inspector

Article 6

- (1) The administrative sanctions as referred to in Article 2 are imposed based on the result of inspection conducted by a labour inspector that is derived from:
 - a. a complaint; and/or
 - b. a follow-up of the result of labour inspection.
- (2) Inspection by a labour inspector is conducted in accordance with legislation.
- (3) The follow-up of the result of inspection conducted by a labour inspector as referred to in section (1) is contained in an inspection note.
- (4) In the event that the inspection note as referred to in section (3) is not implemented by an Employer, labour inspector submits a report of non-compliance with legislation on wages to:
 - a. a director general in charge of labour inspection in the Ministry, for labour inspector in the Ministry; or
 - b. a head of regional office administering government affairs in the field of provincial manpower, for a labour inspector in an regional office administering government affairs in the field of manpower.
- (5) The director general as referred to in section (4) point a or the head of regional office as referred to in section (4) point b, submits recommendations to officials who are authorized to impose administrative sanctions.

Part Two
Imposition of Administrative Sanctions

Article 7

- (1) The imposition of administrative sanctions is conducted by authorized officials as referred to in Article 5 based on the recommendations submitted by a Ministry or an office administering government affairs in the field of local manpower.
- (2) Recommendations for the imposition of an administrative sanction in the form of written warning are given based on the inspection note and non-compliance report as referred to in Article 6 section (3) and section (4).
- (3) Recommendations for the imposition of administrative sanctions in the form of restriction on business activities, a temporary termination of partial or whole production tools, or a freeze of business activities are given based on certain considerations in accordance with the type of violation committed by Employer.

Paragraph 1
Administrative Sanctions for Violation of
Religious THR Payment Provisions

Article 8

- (1) Religious THR must be given by an Employer to Workers/Labourers.
- (2) The Religious THR as referred to in section (1) is required to be paid at the latest 7 (seven) days before the religious holiday.

Article 9

Employers who do not pay Religious THR as referred to in Article 8 are imposed by administrative sanctions in the form of:

- a. written warning; and
- b. restriction on business activities.

Article 10

The written warning as referred to in Article 9 point a is imposed on an Employer for 1 (one) time within the period at the longest 3 (three) calendar days since the written warning is received.

Article 11

- (1) The employer who do not fulfill his/her obligation until the period as referred to in Article 10 ends, may be recommended for the imposition of an administrative sanction in the form of restriction of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. causes of the non-implementation of a written warning by an Employer; and
 - b. company's financial condition based on the financial statements from the last 2 (two) years that have been audited by public accountants.
- (3) The imposition of an administrative sanction in the form of restriction of business activities prevails until the fulfillment of an Employer's obligation to pay Religious THR as referred to in Article 8 section (1).

Article 12

The imposition of administrative sanctions as referred to in Article 9 does not discharge an Employer's obligation with respect to a fine for the late payment of Religious THR as regulated in legislation.

Paragraph 2

Administrative Sanctions for Violation of
Service Charge Distribution Provisions

Article 13

Employers who apply the Service Charge in hotel businesses and restaurant businesses in hotel must distribute it to Workers/Labourers after it is reduced by the risk of loss or breakage and the empowerment of human resources quality improvement.

Article 14

The Employers that do not distribute Service Charge as referred to in Article 13 are imposed by administrative sanctions in the form of:

- a. written warning; and
- b. restriction of business activities.

Article 15

The written warning as referred to in Article 14 point a is imposed on an Employer 2 (two) times, each one for a period of 7 (seven) work days since the failure to fulfill the obligation as referred to in Article 13.

Article 16

- (1) The Employer who does not fulfill their obligation until the period as referred to in Article 15 ends, may be recommended for the imposition of an administrative sanction in the form of restriction of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. causes of the non-implementation of a written warning by an Employer; and
 - b. company's financial condition based on the financial statements from the last 2 (two) years that have been audited by public accountants.
- (3) The imposition of an administrative sanction in the form of restriction of business activities prevails until the fulfillment of an Employer's obligation to distribute Service Charge to Workers/Labourers as referred to in Article 13.

Paragraph 3

Administrative Sanctions for Violation of Wage Structure and Scale Provisions

Article 17

- (1) Wage Structure and Scale are required to be prepared by an Employer by taking into account category, position, years of service, education, and competence.

- (2) The Wage Structure and Scale as referred to in section (1) are required to be informed to all Workers/Labourers.
- (3) The Wage Structure and Scale as referred to in section (1) must be attached by a Company at the time of the application for:
 - a. approval and renewal of a company policy; or
 - b. registration, extension, and renewal of the collective bargaining agreement.

Article 18

Employers who do not prepare and do not inform Wage Structure and Scale to Workers/Labourers as referred to in Article 17 section (1) and section (2) are imposed by administrative sanctions in the form of:

- a. written warning; and
- b. restriction of business activities.

Article 19

The written warning as referred to in Article 18 point a is imposed on an Employer 2 (two) times, each one for a period of 15 (fifteen) work days since the failure to fulfill his/her obligation as referred to in Article 17 section (1) and section (2).

Article 20

- (1) The Employer who does not fulfill his/her obligation until the period as referred in Article 19 ends, may be recommended for the imposition of an administrative sanction in the form of restriction of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. causes of the non-implementation of written warning by an Employer; and
 - b. company's financial condition based on the financial statements from the last 2 (two) years that have been audited by public accountants.
- (3) The imposition of an administrative sanction in the form of restriction of business activities prevails until the fulfillment

of an Employer's obligation as referred to in Article 17 section (1) and section (2).

Paragraph 4
Administrative Sanctions for Violation of
Failure to Pay Wage Provisions

Article 21

Wage payments by Employers are done within the period at the soonest 1 (one) time in a week or at the latest 1 (one) time in a month unless the work agreement is less than 1 (one) week.

Article 22

Employers who do not pay a Wage until the period passes as referred to in Article 21 are imposed by administrative sanctions in the form of:

- a. written warning;
- b. restriction of business activities;
- c. temporary suspension of some or all production tools; and
- d. suspension of business activities.

Article 23

The written warning as referred to in Article 22 point a is imposed on an Employer 2 (two) times, each one for a period of 15 (fifteen) work days since the failure to fulfill the obligation as referred to in Article 21.

Article 24

- (1) The Employer who does not fulfill his/her obligation until the time period as referred to in Article 23 ends, may be recommended for the imposition of an administrative sanction in the form of restriction of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. causes of the non-implementation of written warning by an Employer; and

- b. company's financial condition based on the financial statements from the last 2 (two) years that have been audited by public accountants.
- (3) The imposition of an administrative sanction in the form of restriction of business activities prevails up to 14 (fourteen) work days since the decision letter of business activities restriction is received.

Article 25

- (1) The Employer who does not fulfill his/her obligation until the period as referred to in Article 24 section (3) ends, may be recommended for the imposition of an administrative sanction in the form of temporary suspension of some or all production tools.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
- a. violation committed encompasses more than 50% (fifty percent) of the number of Workers/Labourers in the concerned company; and
 - b. employment continuity for overall Workers/Labourers in the concerned Company.
- (3) The imposition of an administrative sanction as referred to in section (1) prevails up to 14 (fourteen) work days since the decision letter of temporary suspension of some or all production tools is received.

Article 26

- (1) The Employer who does not fulfill his/her obligation until the period as referred to in Article 25 section (3) ends, may be recommended for the imposition of an administrative sanction in the form of suspension of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
- a. public interests to the fulfillment of the needs for goods and services in the market; and
 - b. job market condition in the local area;

- (3) The imposition of an administrative sanction in the form of suspension of business activities prevails until the fulfillment of Employer's obligation to pay the Wage of Workers/Labourers.

Article 27

The imposition of administrative sanctions as referred to in Article 22 does not discharge Employer's obligation with respect to a fine for the late payment of Wages and the interest as regulated in legislation.

Paragraph 5

Administrative Sanctions for Violation of Fine Payment Provisions

Article 28

Employers that violate the provisions in a work agreement, company policy, or collective bargaining agreement due to intent or negligence is imposed by a fine if it is strictly regulated in a work agreement, company policy, or collective bargaining agreement.

Article 29

- (1) Employers that do not fulfill their obligation to pay a fine as referred to in Article 28 is imposed by administrative sanction in the form of written warning.
- (2) The written warning prevails until the fulfillment of Employer's obligation to pay a fine as referred to in Article 28.

Paragraph 6

Administrative Sanctions for Violation of Wage Deduction Provisions

Article 30

The total amount of Wage deduction by an Employer is a maximum of 50% (fifty percent) of every Wage payment received by Workers/Labourers.

Article 31

Employers that deduct Wage for more than 50% (fifty percent) as referred to in Article 30 are imposed by administrative sanctions in the form of:

- a. written warning;
- b. restriction of business activities;
- c. temporary suspension of some or all production tools; and
- d. suspension of business activities.

Article 32

The written warning as referred to in Article 31 point a is imposed on an Employer 2 (two) times, each one for a period of 15 (fifteen) work days since the failure to fulfill the obligation as referred to in Article 29.

Article 33

- (1) The Employer who does not fulfill his/her obligation until the period as referred to in Article 32 ends, may be recommended for the imposition of an administrative sanction in the form of restriction of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. causes of the non-implementation of written warning by an Employer; and
 - b. company's financial condition based on the financial statements from the last 2 (two) years that have been audited by public accountants.
- (3) The imposition of an administrative sanction as referred to in section (1) prevails up to 14 (fourteen) work days since the decision letter of business activities restriction is received.

Article 34

- (1) The Employer who does not fulfill his/her obligation until the period as referred to in Article 33 section (3) ends, may be recommended for the imposition of an administrative sanction in the form of temporary suspension of some or all production tools.

- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. violation committed encompasses more than 50% (fifty percent) of the number of Workers/Labourers in the concerned company; and
 - b. employment continuity for overall Workers/Labourers in the concerned Company.
- (3) The imposition of an administrative sanction as referred to in section (1) prevails up to 14 (fourteen) work days since the decision letter of temporary suspension of some or all production tools is received.

Article 35

- (1) The Employer who does not fulfill his/her obligation until the period as referred to in Article 34 section (3) ends, may be recommended for the imposition of an administrative sanction in the form of suspension of business activities.
- (2) The recommendation as referred to in section (1) is at least based on considerations regarding:
 - a. public interests to the fulfillment of the needs for goods and services in the market; and
 - b. job market condition in the local area;
- (3) The imposition of an administrative sanction in the form of suspension of business activities prevails until the fulfillment of the Employer's obligation as referred to in Article 30.

Paragraph 7

Other Violation

Article 36

Employers are required to give a proof of Wage payment which contains details of Wage received by Workers/Labourers at the time the Wage is paid.

Article 37

- (1) The Employers who do not fulfill their obligation to give a proof of Wage payment as referred to in Article 36 are imposed by an administration sanction in the form of written warning.

- (2) An administrative sanction in the form of written warning prevails until the fulfillment of an Employer's obligation to give a proof of Wage payment as referred to in Article 36.

Part Three

Notification for the Imposition of Administrative Sanctions

Article 38

A concerned Minister, a governor, a regent/mayor, or appointed officials notifies the implementation of imposing administrative sanctions to the Minister.

CHAPTER IV

REVOCATION OF ADMINISTRATIVE SANCTIONS

Article 39

- (1) Employers imposed by administrative sanctions must notify officials imposing the sanction that they have fulfilled their obligation.
- (2) The officials as referred to in section (1) revoke administrative sanctions based on the recommendation from a Ministry or a regional office that manages government affairs in the field of manpower.
- (3) The revocation of administrative sanctions as referred to in section (2) is notified to the Minister.

CHAPTER V

MISCELLANEOUS PROVISION

Article 40

Administrative sanctions for violation of Wage Structure and Scale provisions in this Ministerial Regulation are not applicable for Employers who have not formulate and implemented the Wage Structure and Scale until the period regulated in Transitional Provisions of Government Regulation Number 78 of 2015 on Wages.

CHAPTER VI

CLOSING PROVISION

Article 41

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 6 June 2016

MINISTER OF MANPOWER OF
THE REPUBLIC OF INDONESIA,

Signed

M. HANIF DHAKIRI

Promulgated in Jakarta
on 6 June 2016

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

Signed

WIDODO EKATJAHJANA

STATE BULLETIN OF REPUBLIC OF INDONESIA OF 2016 NUMBER 837

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