

ELUCIDATION OF
REGULATION OF THE PROVINCE OF WEST SUMATERA
NUMBER 7 OF 2019
ON
MANPOWER IMPLEMENTATION

I. GENERAL

Manpower development as an integral part of national development under Pancasila and the 1945 Constitution of the Republic of Indonesia is implemented for the whole Indonesian people development to enhance value, dignity and pride of workers as well as realize prosperous, fair, well and equitable society, both materially and spiritually. The manpower development must be well regulated so the basic rights and protection for manpower and worker/labourer are met at the same time as the realization of conducive situation for business development. The manpower development has many dimension and relation. Those relations are not only workers' interest during, before, and after work but also employers, government, and people's interests. Thus, the comprehensive regulation is necessary, covering human resources development, Indonesian workers' productivity and competitiveness enhancement, efforts to expand employment opportunities, workers placement services, and industrial relation fostering.

Under Law Number 23 of 2014 on Local Government as amended several times, last by Law Number 9 of 2015 on the Second Amendment to Law Number 23 of 2014 on Local Government, manpower is a mandatory of government that is unrelated to basic service. The manpower affairs have been regulated in Law Number 13 of 2003 on Manpower and other legislation; such as Government Regulation, Presidential Regulation and Regulation of the Minister of Manpower.

Initially, basic rights of workers/labourers as well as equal opportunity and treatment must be carried out in well-planned, structured, and integrated for enhancing prosperity of West Sumatera Province society. For it, the West Sumatera Province must face free market challenges especially ASEAN Economic Community. The best way to face it is by implementing manpower and developing workers quality who work for both public and private company sectors.

The manpower issues are also national issue that must be solved comprehensively by several parties. The macro issues in manpower such as shifting the use of technology that is more efficient than the use of workers. This changes the system from workers intensive to capital intensive that may change work climate and relation between employer and workers. So the manpower implementation must be carried out based on the principles of integral, rights equity, democracy, social justice, gender equity and justice and without discrimination, with the purpose of empowering and exploiting workers optimally and humanely, realize equal work opportunity and workers provision in accordance with local and national development needs, guarantee equal treatment without discrimination for workers/labourers, enhance prosperity for workers and their families, increase workers quality both direct and indirect in relation with work and keep good industrial relation.

In manpower implementation, the Local Government is obligated to draft manpower planning covering macro manpower planning; determine policy direction in priority sectors for empowering and exploiting local workers optimally; determine policy strategy for equal work opportunity and workers provision in accordance with development needs in regions; and determine policies purposely for regulate manpower implementation in regions.

Based on those issues, there are 5 (five) scopes of problems of manpower that need to regulated covering: workers and manpower information planning; work training and productivity; workers placement; industrial relation; and manpower supervision.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Point a

The term “integral” means the manpower implementation is carried out by harmonize several elements such as government, employer and workers and synergize several related components.

Point b

The term “rights equity” means every manpower implementor has equal rights for manpower.

Point c

The term “democratisation” means all business people either employer or worker participated directly and actively in government decision making in manpower implementation.

Point d

The term “social justice” means to give guarantee of decent livelihood for workers so they can get the opportunity to have better lives.

Point e

The term “gender equity and justice” means the equal condition for males and females to obtain opportunity as well as their rights as human for being able to participate in business world.

Point f

The term “without discrimination” means the equal treatment and opportunity for all people in building manpower without discriminating tribes, races, religions and groups.

Article 3

Sufficiently clear.

Article 4

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Section (1)

Sufficiently clear.

Section (2)

- a. macro PTK, covers manpower plan drafting process systematically containing manpower empowering optimally and productively, for supporting social or economy development either nationally, regionally or sectorally. So may give optimal work opportunity, enhance work productivity, and enhance workers/labourers prosperity.
- b. micro PTK, covers manpower plan drafting process systematically in an institution/agency, either institution of Government, Local Government, Regency/Municipal Government or private in order to enhance manpower empowering optimally and productively to support good work achievement in related institution/agency or company.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 7

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Section (1)

The responsibilities of the Local Government in organizing Training cover: training unit establishment, means and

infrastructures provisions, instructors and training staff provision as well as training funding in accordance with the legislation.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 13

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Sufficiently clear.

Article 16

Sufficiently clear.

Article 17

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

The Apprenticeship training and supervising staffs may guide Apprenticeship participants according to Apprenticeship program needs of which not more than 30% (thirty) percent of total employees of concerned company.

Article 21

Section (1)

Sufficiently clear.

Section (2)

The Apprenticeship Web Communication Forums (*Forum Komunikasi Jejaring* Pemagangan, FKJP) are such as Apprenticeship and Training Communication Forum, Skill Development Center (SDC) and/or other forums related to human resource development.

Article 22

Sufficiently clear.

Article 23

Sufficiently clear.

Article 24

Sufficiently clear.

Article 25

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Sufficiently clear.

Article 34

Sufficiently clear.

Article 35

Section (1)

Point a

Sufficiently clear.

Point b

Private institutions consist of:

- a. Worker Supplying Companies,
- b. Private Workers Placement Agencies,
- c. Special Work Exchange in high schools and universities and/or training institutions.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

The Position Counseling and Fostering Service is applied to Vocational Schools or Universities and to Office of Regency/Municipality (responsible for AK1 service = *kartu kuning*) by the employment placement service officer.

Article 38

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Sufficiently clear.

Article 41

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

Section (1)

Protection of Indonesian Migrant Workers is necessary in an integrated system by involving central government, local governments, related stakeholders and public. The role of local government in providing protection of Indonesian Migrant Workers is carried out starting from village, regency/municipality, and province since before work until after work. The protection of Indonesian Migrant Workers covers institutional protection, in this case the division of authority between Ministry of Manpower as the regulator or policy maker and agency as the operator or policy forcer. The local government must take the role and prepare Indonesian Migrant Workers to work abroad, including the time of working abroad in accordance with Law Number 18 of 2017 on Protection of Indonesian Migrant Workers. It also applies for health affairs, in case the local government budget must facilitate such as the banks or other legal units in accordance with the legislation.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 44

Sufficiently clear.

Article 45

Sufficiently clear.

Article 46

Sufficiently clear.

Article 47

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Sufficiently clear.

Article 50

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Point a

Sufficiently clear.

Point b

The abilities and qualifications are parties able and qualified legally to make agreement. For children workers, their parents or guardians sign the agreement.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Article 51

Sufficiently clear.

Article 52

Sufficiently clear.

Article 53

Section (1)

The term “permanent jobs” means jobs that are permanent, continual, not limited by time and parts of a production process in a company or work that is not seasonal.

Section (2)

Point a

The term “one time or interim jobs” means certain period employment contract based on certain periods that may be for not later than 2 (two) years and can only be extended for not later than 1 (one) year, also may be renewed for not later than 2 (two) years with a grace period of 1 (one) month before the renewal.

Point b

The term “seasonal jobs” means jobs that do not depend on certain weather or condition. If the jobs are permanent, continual, not limited by time and parts of a production process, but depend on weather or they are needed because of certain condition, the jobs are seasonal and do not belong to permanent jobs so they may be objects for certain period employment contract.

Point c

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Article 54

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Certain conditions or occurrences such as natural disaster, social riots or security disturbance.

Point e

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

The rights in accordance with the legislation or rights as regulated in the employment contract, company regulation, or collective employment contract are rights that must be given that are better and beneficial for workers/labourers concerned.

Article 55

Sufficiently clear.

Article 56

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The term “work requirements” means rights and obligations of employers and workers/labourers that are not regulated in legislation yet.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Article 57

Sufficiently clear.

Article 58

Sufficiently clear.

Article 59

Sufficiently clear.

Article 60

Sufficiently clear.

Article 61

Sufficiently clear.

Article 62

Sufficiently clear.

Article 63

Sufficiently clear.

Article 64

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Article 65

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Article 66

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Article 67

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Article 68

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Article 69

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Article 70

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Article 71

Sufficiently clear.

Article 72

Sufficiently clear.

Article 73

Sufficiently clear.

Article 74

Sufficiently clear.

Article 75

Sufficiently clear.

Article 76

Sufficiently clear.

Article 77

Point a

The right dispute means dispute concerning normative rights that are stipulated in employment contract, company regulation, collective employment contract, or legislation.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Article 78

Section (1)

For a company with a total workers/labourers less than 50 (fifty) people, its communication and consultation can be carried out individually well and effectively. For a company with a total workers/labourers 50 (fifty) people or more, its communication and consultation need to be carried out by representatives system.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 79

Sufficiently clear.

Article 80

Sufficiently clear.

Article 81

Section (1)

The bipartite negotiation as referred to in this article is the negotiation between employer or employers association and workers or trade union or between trade union and other trade union in dispute in a company.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 82

Sufficiently clear.

Article 83

Sufficiently clear.

Article 84

Section (1)

The term “failed negotiation” means the failure to reach an agreement to settle industrial relation dispute that may be caused by employer that refuses to negotiate or the negotiation reaches deadlock.

The term “orderly and peacefully” means not disturb public security and order, and/or threaten the safety of people and properties of company or employers or other people or public.

Section (2)

Sufficiently clear.

Section (3)

Point a

Sufficiently clear.

Point b

Location of work strike means places determined by the work Strike person in charge that are not prevent other workers/labourers to work.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Article 85

Sufficiently clear.

Article 86

The companies providing public service and/or Company of which its business endangers human safety are hospitals, fire department, railroad crossing guard, sluice guard, air traffic flow management and sea traffic flow management.

Article 87

The term “violating normative rights” means the employers are consciously not willing to fulfill their obligation as stated and/or stipulated in employment contract, company regulation, collective employment contract or legislation on manpower even though already determined or ordered by the authorized officials in the field of manpower.

The payment of wages of workers/labourers in strike in this article does not remove the provisions regarding sanctions against employers violating normative provisions.

Article 88

Sufficiently clear.

Article 89

Section (1)

The effort to prevent termination of employment relation, such as work hour regulation, efficiency, re-organize of work method and supervisory to workers/labourers.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 90

Sufficiently clear.

Article 91

Sufficiently clear.

Article 92

Sufficiently clear.

Article 93

Sufficiently clear.

Article 94

Sufficiently clear.

Article 95

Sufficiently clear.

Article 96

Sufficiently clear.

Article 97

Section (1)

The term “income that can fulfill decent living” means income of workers/labourers is sufficient to fulfill decent living of workers/labourers and their families covering foods and drinks, clothing, housing, education, health, recreation and old-age security.

Section (2)

Sufficiently clear.

Section (3)

The minimum wage determination as safety net is so that the wage will not be paid less than minimum wage determined by the government and also so that the wage does not decrease to the

level endangering workers/labourers nutrition and disturbing their work abilities.

Section (4)

Point a

The term “wage without allowance” means an amount of money regularly received by workers/labourers.

Point b

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 98

Section (1)

Sufficiently clear.

Section (2)

The formulation of wage structure and scale aims to be guidance of wage determination so that there is an assurance of wage of each workers/labourers and also to lessen gap between lowest and highest wages in company concerned.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 99

Sufficiently clear.

Article 100

Sufficiently clear.

Article 101

Sufficiently clear.

Article 102

Sufficiently clear.

Article 103

Sufficiently clear.

Article 104

Sufficiently clear.

Article 105

Sufficiently clear.

Article 106

Sufficiently clear.

Article 107

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

The term “occupational health and safety management system” means a part of entire company management system covering organizational system, planning, implementation, account, procedure, process, and resources needed for developing, applying, achieving, reviewing, and maintaining policies of occupational health and safety in controlling risk on work activities for achieving safe, efficient, and productive workplace.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 108

Sufficiently clear.

Article 109

Section (1)

Sufficiently clear.

Section (2)

The term “certain work/business sectors” such as work in offshore drilling, long-distance transport drivers, long-distance flights, ships (sea), or deforestation.

Section (3)

Overworking must be prevented as possible because the workers/labourers must have sufficient time to rest and recovery. However, in certain cases there are emergency needs that must be finished immediately and cannot be avoided so that the workers/labourers must work overtime.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 110

Sufficiently clear.

Article 111

Sufficiently clear.

Article 112

Sufficiently clear.

Article 113

Sufficiently clear.

Article 114

Sufficiently clear.

Article 115

Sufficiently clear.

Article 116

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The book of inspection means the company data book containing manpower condition and may be used by the Labour Inspector to record examination results and correction requirements for legislation violation in the field of manpower issued by the Office responsible for Provincial manpower and book of inspection in kept by the company.

Section (4)

Sufficiently clear.

Article 117

Sufficiently clear.

Article 118

Sufficiently clear.

Article 119

Sufficiently clear.

Article 120

Sufficiently clear.