

REGULATION OF THE MINISTER OF MANPOWER AND TRANSMIGRATION OF
THE REPUBLIC OF INDONESIA
NUMBER 19 OF 2012
ON
TERMS FOR CONTRACTING PARTIAL WORK TO OTHER COMPANIES

BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF MANPOWER AND TRANSMIGRATION OF
THE REPUBLIC OF INDONESIA,

- Considering :
- a. that the implementation of job contracting and the provision of services of workers/Labourers is directed to create a climate of industrial relations that is harmonious, dynamic and fair;
 - b. that the provisions regulated in Decision of the Minister of Manpower and Transmigration Number KEP.101/MEN/VI/2004 on Procedures for Licensing Worker/Labourer Service Supply Companies and Decision of the Minister of Manpower and Transmigration Number KEP.220/MEN/X/2004 on Terms for Contracting Partial Work to Other Companies, are no longer in accordance with current developments, and thus need to be improved;
 - c. that based on the considerations as referred to in point a and point b, it is necessary to issue a Ministerial Regulation on Terms for Contracting Partial Work to Other Companies;

- Observing :
1. Law Number 3 of 1951 on Declaration of Enactment of Labour Inspection Law of 1948 Number 23 from the Republic of Indonesia for all of 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 2 of 2004 on Settlement of Industrial Relations Disputes (State Gazette of the Republic of Indonesia Number 6 of 2004, Supplement to the State Gazette of the Republic of Indonesia Number 4356);
 4. Presidential Decree Number 84/P of 2009;

HAS DECIDED:

To issue : REGULATION OF THE MINISTER OF MANPOWER AND TRANSMIGRATION ON TERMS FOR CONTRACTING PARTIAL WORK TO OTHER COMPANIES.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Ministerial Regulation:

1. Employer company means a company that contracts partial work to the contractor company or a worker/labourer supply company.
2. Contractor company means a company in the form of a legal entity that meets the terms to accept the partial work from the employer company.
3. Worker/labourer supply company means a company in the form of a limited liability company (Perseroan Terbatas/PT) that meets the terms to carry out supporting services for the employer company.
4. Job contracting agreement means an agreement between the employer company and the contractor company retaining the rights and obligations of the parties.

5. Worker/labourer supply agreement means an agreement between the employer company and the worker/labourer supply company retaining the rights and obligations of the parties.
6. Worker/labourer means any person who works at a contractor company or worker/labourer supply company that receives wages or other forms of compensation.
7. Employment contract means an agreement between a contractor company or a worker/labourer supply company and workers/labourer at the contractor company or the worker/labourer supply company retaining he rights and obligations of each party.
8. Minister means the Minister who is responsible in the field of manpower.

Article 2

Contracting partial work to other companies may be performed by an employment contract or the worker/labourer supply agreement.

CHAPTER II JOB CONTRACTING

Part One Job Contracting Requirements

Article 3

- (1) The employer company may contract partial work to the contractor company.
- (2) A Work that may be contracted to the contractor company as referred to in section (1) must meet the following requirements:
 - a. the work that is carried out separately from the core activities of both management and work implementation activities;
 - b. the work that is carried out by direct or indirect orders from the employer company, intended to provide an explanation of how to perform the work in accordance with the standards set by the employer company;

- c. the work that constitutes supporting activities of the company as a whole, meaning that the activities constitute activities that support and smooth the implementation of the core activities in accordance with the workflow of the work implementation process established by business sector associations that is formed in accordance with legislation; and
- d. the work that does not impede the production process directly, meaning that the activity is an additional activity that if it is not carried out by the employer company, the work process still remains in appropriate place should.

Article 4

- (1) Business sector associations as referred to in Article 3 section (2) point c must create the workflow in accordance with their respective business sectors.
- (2) The workflow as referred to in section (1) must describe the work process from the beginning to the end and reflect the main activities and supporting activities by taking into account the requirements as referred to in Article 3 section (2).
- (3) The workflow as referred to in section (2) is used as the basis for employer company in the contracting partial work through the job contracting.

Article 5

The types of supporting work that will be contracted to the contractor company must be reported by the employer company to the institution responsible in the field of manpower in the regency/municipality where the job contracting is carried out.

Article 6

The institution responsible in the field of manpower in the regency/municipality as referred to in Article 5 issues evidence of reporting the types of supporting work that will be contracted through the job contracting, not later than 1 (one) week since the report is carried out by the employer company.

Article 7

- (1) The employer company is prohibited from contracting the partial work to the contractor company if they do not yet have proof of reporting as referred to in Article 6.
- (2) If the employer company contracts a partial work to the contractor company before having proof of reporting as referred to in Article 6, then the employment relations between the workers/labourers and the contractor company switches to the employer company.

Article 8

Employer companies must report in writing any changes to the types of supporting work that will be contracted through job contracting, to the institution responsible in the field of manpower in the regency/municipality where the job contracting is carried out with due regard to the process as referred to in Article 5.

Part Two

Job Contracting Agreement

Article 9

- (1) Contracting a partial work as referred to in Article 3 section (1) is carried out through a job contracting agreement in writing.
- (2) The job contracting agreement as referred to in section (1) must at least:
 - a. retrain the rights and obligations of each party;
 - b. guarantee that the work protection and working conditions for workers/labourers are fulfilled in accordance with the legislation; and
 - c. employ workers with competence in their fields.

Article 10

- (1) The job contracting agreement as referred to in Article 9 must be registered by the contractor company to the institution responsible in the regency/municipality where the job contracting is carried out.

- (2) Registration of the job contracting as referred to in section (1) is made after the agreement is signed between the employer company and the contractor company, not later than 30 (thirty) work days before the work is carried out.

Article 11

In the event that the job contracting agreement is in compliance with the provisions as referred to in Article 9 and Article 10, the institution in the field of manpower in the regency/municipality where the work is carried out issues a proof of registration not later than 5 (five) work days since the application documents for registration of agreement is received.

Part Three

Contractor Companies Requirements

Article 12

Contractor companies must fulfill the following requirements:

- a. are legal entities;
- b. have a company registration certificate;
- c. have a business license; and
- d. have proof of mandatory report on manpower at the company.

Part Four

Employment Contract for Job Contracting

Article 13

Every employment contract in the job contracting is required to contain provisions that guarantee the fulfillment of the rights of workers/labourers in employment relations as regulated in legislation.

Article 14

The employment contract for the job contracting regulates the employment relations between the contractor company and its workers/labourers in writing.

Article 15

The employment relations between the contractor company and its workers/labourers as referred to in Article 14 may be based on the employment contract for indefinite period or an employment contract for definite period of time.

Article 16

Reporting the types of activities as referred to in Article 5 and registration of the job contracting agreement as referred to in Article 10 is free of charge.

CHAPTER III

WORKER/LABOURER SUPPLY

Part One

Requirements for Worker/Labourer Supply

Article 17

- (1) The employer company may contract a partial work to the worker/labourer supply company through a worker/labourer supply agreement in writing.
- (2) Work that may be contracted to the worker/labourer supply company as referred to in section (1) must be a supporting services or those which are not directly related to the production process.
- (3) Supporting services as referred to in section (2) include:
 - a. cleaning services;
 - b. workers/labourers catering services;
 - c. security services;
 - d. supporting services in mining and petroleum; and
 - e. transportation services for workers/labourers.

Article 18

Worker/labourer supply companies are prohibited from contracting partial or whole work to other worker/labourer supply companies.

Part Two

Worker/Labourer Supply Agreement

Article 19

The worker/labourer supply agreement as referred to in Article 17 section (1) at least contains:

- a. the types of work to be carried out by workers/labourers from the work/labourer supply company;
- b. the confirmation that the worker/labourer supply company agrees to accept workers/labourers from the previous worker/labourer supply company for the types of work that continues to exist in the employer company in case of a replacement of the worker/labourer supply company; and
- c. the employment relations between the worker/labourer supply company and the workers/labourers employed based on a employment contract for indefinite period of time or a employment contract for definite period of time.

Article 20

- (1) A worker/labourer supply agreement between the employer company and the worker/labourer supply company must be registered with the institution responsible in the field of manpower in the regency/municipality where the work is carried out.
- (2) The registration of worker/labourer supply agreement as referred to in section (1) is made not later than 30 (thirty) work days after being signed by attaching:
 - a. the valid operating license for worker/labourer supply company; and
 - b. the draft employment agreement between the worker/labourer supply company and the employed workers/labourers.

- (3) The registration of the worker/labourer supply agreement as referred to in section (1) is free of charge.

Article 21

- (1) In the event that the worker/labourer supply agreement has fulfilled the provisions as referred to in Article 19 and Article 20, the institution responsible in the field of manpower in the regency/municipality where the work is carried out issues a proof of registration not later than 7 (seven) work days since the application documents for registration of agreement is received.
- (2) In the event that the worker/labourer supply agreement is not in accordance with the provisions as referred to in section (1), then the officials responsible in the field of manpower in the regency/municipality may reject the application for registration by giving reasons for rejection.

Article 22

Worker/labourer supply companies cannot carry out their work operations before obtaining proof of registration of the worker/labourer supply agreement from the institution responsible in the field of manpower in the regency/municipality where the work is carried out.

Article 23

- (1) In the event that the worker/labourer supply agreement is not registered as referred to in Article 20 and the worker/labourer supply company continues to carry out work, the institution responsible in the field of manpower in the province revokes the operating license based on a recommendation from the institution responsible in the field of manpower in the regency/municipality.

- (2) In the event that the operating license for a worker/labourer supply company is revoked, fulfillment of the rights of the workers/labourers remains the responsibility of the worker/labourer supply company concerned.

Part Three

Worker/Labourer Supply Company Requirements

Article 24

Worker/labourer supply companies must meet the following requirements:

- a. be a legal entity in a Limited Liability Company established under the legislation;
- b. have a company registration certificate;
- c. have a business license;
- d. have the receipt of mandatory report on manpower at the company;
- e. have an operating license;
- f. have a permanent office and address; and
- g. have a Taxpayer Identification Number in the name of the company.

Article 25

- (1) An operating license as referred to in Article 24 point e is submitted by a worker/labourer supply company to the institution responsible in the field of manpower in the province where the work is carried out, by enclosing:
- a. the copy of the articles of association which includes the business activities of worker/labourer supply;
 - b. the copy of validation as a legal entity in a Limited Liability Company;
 - c. the copy of worker/labourer supply company;
 - d. the copy of company registration certificate;
 - e. the copy of the receipt of mandatory report on manpower at the company;
 - f. the copy of office ownership statement or proof of office lease signed by the head of the company; and
 - g. the copy of Taxpayer Identification Number in the name of the company.

- (2) The institution responsible in the field of manpower in the province as referred to in section (1) issues an operating license for the application that has fulfilled the requirements not later than 14 (fourteen) work days after the application is received.
- (3) The operating license as referred to in section (2) applies in all regencies/municipalities in the province concerned.

Article 26

- (1) The operating license as referred to in Article 25 is valid for a period of 3 (three) years and can be extended for the same period.
- (2) The extension as referred to in section (1) is given based on the requirements regulated in this Ministerial Regulation and the results of an evaluation of company performance conducted by the institution responsible in the field of manpower in the regency/municipality.
- (3) Based on the results of the company's performance evaluation as referred to in section (2), the institution responsible in the field of manpower in the province grants approval or rejection.

Part Four

Employment Contract for Worker/Labourer Supply

Article 27

- (1) Every worker/labourer supply company is obligated to make employment contract with workers/labourers in writing.
- (2) The employment contract as referred to in section (1) must be recorded in institution responsible in the field of manpower in the regency/municipality where the work is carried out.
- (3) In the event that the employment contract is not recorded as referred to in section (2), the institution responsible in the field of manpower in the province revokes the operating license based on a recommendation from institution

responsible in the field of manpower in the regency/municipality.

- (4) Recording of employment contract as referred to in section (2) is free of charge.

Article 28

Every employment contract for the worker/labourer supply must contain provisions that guarantee the fulfillment of the rights of workers/labourers in an employment relations as regulated in legislation.

Article 29

- (1) The employment relations between a worker/labourer supply company and its workers/labourers as referred to in Article 28 can be based on an employment contract for indefinite period of time or employment contract for definite period of time.
- (2) In the event of employment relations based on an employment contract for definite period of time which the object of work remains as referred to in section (1), it must at least contain:
 - a. the guarantee of the continuity of work;
 - b. the guarantee of fulfillment of the rights of workers/labourers in accordance with legislation and as agreed; and
 - c. the guarantee of the calculation of work period in the event of a change of worker/labourer supply companies to set wages.
- (3) Worker/labourer rights as referred to in section (2) point b include:
 - a. the right for leave if the terms of service has been fulfilled;
 - b. the right to social security;
 - c. the right to holiday allowances;
 - d. the right to rest for at least 1 (one) day in 1 (one) week;

- e. the right to receive compensation in the event that the employment relations is terminated by the worker/labourer supply company before the employment contract for a definite period of time ends through no fault of the worker;
- f. the right to wage adjustments calculated from the accumulated years of work that have been passed; and
- g. other rights that have been regulated in legislation and/or previous employment contracts.

Article 30

In the event that an employment contract for a definite period of time does not contain provisions as referred to in Article 28 and Article 29, then the employment relations between the worker/labourer supply company and the worker/labourer changes to employment relations based on an employment contract for indefinite period of time as of the eligible of employment contract is signed.

Article 31

In the event that the worker/labourer does not obtain a guarantee of continuity of work, then the worker/labourer can file a lawsuit to the Industrial Relations Court.

Article 32

- (1) In the event that the employer company does not continue the worker/labourer supply agreement and transfers the work of the worker/labourer supply to a new worker/labourer supply company, the new worker/labourer supply company must continue the employment contract that has been exist previously without reducing the provisions in the agreed employment contract.

- (2) In the event of a transfer of work to a new worker/labourer supply company as referred to in section (1), the work period that has been passed by the workers/labourers at the previous worker/labourer supply company must still be considered to exist and taken into account by a new worker/labourer supply company.

CHAPTER IV INSPECTION

Article 33

The inspection of the implementation of this regulation is carried out by the Labour Inspector.

CHAPTER V TRANSITIONAL PROVISIONS

Article 34

- (1) Every employer company, contractor company or worker/labourer supply company must adjust to the provisions in this Ministerial Regulation not later than 12 (twelve) months from the promulgation of this Ministerial Regulation.
- (2) In the event that the contractor company or worker/labourer supply company do not adjust to the provisions as referred to in section (1), contractor company or worker/labourer supply company remain responsible for the rights of workers/labourers according to the employment contract.

CHAPTER VI CLOSING PROVISIONS

Article 35

At the time this Ministerial Regulation comes into force, Decision of the Minister of Manpower and Transmigration Number KEP.101/MEN/VI/2004 on Procedures of Licensing for Worker/Labourer Supply and Decision of the Minister of

Manpower and Transmigration Number KEP.220/MEN/X/2004 on Terms for Contracting Partial Work of Other Companies are repealed and declared ineffective.

Article 36

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 14 November 2012

MINISTER OF MANPOWER AND
TRANSMIGRATION OF THE REPUBLIC
OF INDONESIA,

signed

MUHAIMIN ISKANDAR

Promulgated in Jakarta
on 19 November 2012

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

signed

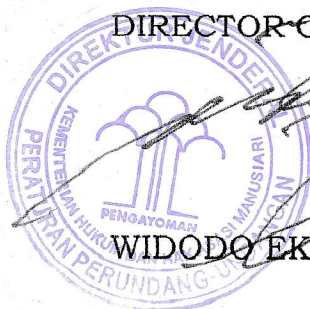
AMIR SYAMSUDIN

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Jakarta, 13 December 2019

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