



PRESIDEN
REPUBLIK INDONESIA

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 18 OF 2017
ON
PROTECTION OF INDONESIAN MIGRANT WORKERS

BY THE BLESSINGS OF ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that working is a human right that must be upheld, respected, and its implementation must be guaranteed as mandated in the 1945 Constitution of the Republic of Indonesia;
 - b. that the State ensures rights, opportunities, and gives protection to every citizen without discrimination to get a decent work and income, either in the country or abroad in accordance with the expertise, skill, talent, interest, and ability;
 - c. that Indonesian migrant workers must be protected from human trafficking, slavery and forced labour, violence, arbitrariness, crime against humanity, as well as other treatments that violate human rights;
 - d. that the placement of Indonesian migrant workers is an effort to achieve equal rights and opportunities for workers in order to get a decent work and income, of which implementation is conducted with regards to dignity, human rights, and legal protection, as well as equal job opportunities and supply of labour that is in accordance with the national interest;

- e. that the State is obligated to improve the entire protection system for Indonesian migrant workers and their families which reflects the values of humanity and dignity as a nation before, during, and after working;
- f. that the placement and protection of Indonesian migrant workers need to be conducted in an integrated manner between government institutions, either central or local governments, by involving the public;
- g. that the provisions as regulated in Law Number 39 of 2004 on Placement and Protection of Indonesian Workers Overseas are no longer appropriate with the development of Indonesian migrant workers' protection needs;
- h. that based on the considerations as referred to in point a, point b, point c, point d, point e, point f, and point g, it is necessary to establish the Law on Protection of Indonesian Migrant Workers;

- Observing : 1. Article 20, Article 21, Article 27 section (2), Article 28 D section (1) and section (2), Article 28 E section (1) and section (3), Article 28 G, Article 28 I section (1) and section (2), and Article 29 of the 1945 Constitution of the Republic of Indonesia;
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 6 of 2012 on Ratification of International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (State Gazette of the Republic of Indonesia of 2012 Number 115, Supplement to the State Gazette of the Republic of Indonesia Number 5314);

With the Joint Approval of
THE HOUSE OF REPRESENTATIVES
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

HAS DECIDED:

To enact : LAW ON PROTECTION OF INDONESIAN MIGRANT
WORKERS.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law:

1. Prospective Indonesian Migrant Worker means any Indonesian worker who fulfills the criteria as a job seeker who will work abroad and is registered in regency/municipal government institution responsible for manpower affairs.
2. Indonesian Migrant Worker means any Indonesian citizen who will work, currently works, or has done a work for wage outside the territory of the Republic of Indonesia.
3. Family of Indonesian Migrant Worker means the husband, wife, children, or parents of worker including the relationship due to court's ruling and/or verdict, both the ones who live in Indonesia and the ones who live with Indonesian Migrant Worker abroad.
4. Individual Indonesian Migrant Worker means an Indonesian Migrant Worker who will work abroad without using employment agency.
5. Protection of Indonesian Migrant Workers means any effort to protect the interest of Prospective Indonesian Migrant Worker and/or Indonesian Migrant Worker and their families in order to ensure the fulfillment of their rights in all activities before, during, and after working in legal, economic, and social aspects.

6. Before Working Protection means the overall activities to give protection since the registration until the departure.
7. During Working Protection means the overall activities to give protection during the time Indonesian Migrant Workers and the members of their family are abroad.
8. After Working Protection means the entire activities to give protection since Indonesian Migrant Workers and the members of their family arrive at debarkation in Indonesia until they return to their hometown, including the follow-through service to be productive workers.
9. Indonesian Migrant Workers Placement Agency means a business entity that is legally incorporated as a limited liability company that has obtained a written permit from the Minister to operate the placement service of Indonesian Migrant Workers.
10. Business Partner means an institution and/or business entity that is legally incorporated in the destination country that is responsible to place Indonesian Migrant Workers to employers.
11. Employer means a government institution, a government legal entity, a private legal entity, and/or individual in the destination country that employs Indonesian Migrant Workers.
12. Placement Cooperation Agreement means a written agreement between Indonesian Migrant Workers Placement Agency and Business Partner or Employer that contains the rights and the obligations of each party in the placement and Protection of Indonesian Migrant Workers in the destination country.
13. Indonesian Migrant Workers Placement Agreement, hereinafter referred to as Placement Agreement means a written agreement between operator of Indonesian Migrant Workers placement and Prospective Indonesian Migrant Worker that contains the rights and the obligations of each party, in the placement of Indonesian Migrant Worker in the destination country in accordance with the legislation.

14. Employment Contract means the written agreement between Indonesian Migrant Worker and Employer that contains terms of employment, rights and obligations of each party, as well as security and safety assurance during working in accordance with the legislation.
15. Work Visa means a written permit that is given by an authorized official of a destination country that contains the approval to enter and work in the designated country.
16. License of Indonesian Migrant Workers Placement Agency, (*Surat Izin Perusahaan Penempatan Pekerja Migran Indonesia*), hereinafter referred to as SIP3MI, means a written permit that is given by the Minister to a legally incorporated business entity in Indonesia that will become an Indonesian Migrant Workers Placement Agency.
17. License of Indonesian Migrant Workers Recruitment, (*Surat Izin Perekrutan Pekerja Migran Indonesia*), hereinafter referred to as SIP2MI, means a permit that is given by the head of Board to Indonesian Migrant Workers Placement Agency that is used to place Prospective Indonesian Migrant Workers.
18. Social Security means one of the social protection forms to ensure that all citizens can fulfill their basic needs appropriately.
19. Person means an individual and/or a corporation.
20. Social Security Agency means a legal institution that manages the Social Security program for Indonesian Migrant Workers.
21. Central Government means the President of the Republic of Indonesia who holds State authority of the Republic of Indonesia and is assisted by Vice President and ministers as referred to in the 1945 Constitution of the Republic of Indonesia.
22. Local Government means the head of a region as a component of local government who leads the management of government affairs within the authority of autonomous region.

23. Village Government means the head of village or as mentioned by other titles who is assisted by village apparatus as a component of village government.
24. Indonesian Missions Abroad, hereinafter referred to as Indonesian Missions means the diplomatic and consular representatives of the Republic of Indonesia who officially represents and strives for the interests of nation, country, and government of the Republic of Indonesia in the destination country or in international organization.
25. Minister means the minister administering government affairs in manpower sector.
26. Board means a non-ministerial government institution that serves as the operator of policy in service and Protection of Indonesian Migrant Workers in an integrated manner.

Article 2

Protection of Indonesian Migrant Workers is based on these principles:

- a. integration;
- b. equality of rights;
- c. recognition of human rights and dignity;
- d. democracy;
- e. social justice;
- f. gender equality and fairness;
- g. non-discrimination;
- h. anti-human trafficking;
- i. transparency;
- j. accountability; and
- k. sustainability.

Article 3

Protection of Indonesian Migrant Workers aims to:

- a. ensure the fulfillment and enforcement of human rights as a citizen and Indonesian Migrant Worker; and
- b. ensure legal, economic, and social protection for Indonesian Migrant Workers and their families.

CHAPTER II
INDONESIAN MIGRANT WORKERS

Part One
General

Article 4

- (1) Indonesian Migrant Workers include:
 - a. Indonesian Migrant Workers who work for legally incorporated Employer;
 - b. Indonesian Migrant Workers who work for individual Employer or household; and
 - c. seafarers and fishermen.
- (2) Indonesian Migrant Workers in this Law exclude:
 - a. Indonesian citizens who are sent or employed by international institution or state outside its territory to do an official assignment;
 - b. students and training participants abroad;
 - c. Indonesian refugees or asylum seekers;
 - d. investors;
 - e. State civil apparatus or local workers who work in Indonesian Missions;
 - f. Indonesian citizens who work in institution that is financed by State budget; and
 - g. Indonesian citizens who own independent business abroad.

Part Two
Requirements

Article 5

Every Indonesian Migrant Worker who will work abroad must fulfill these requirements:

- a. being at least 18 (eighteen) years of age;
- b. having competency;
- c. being physically and mentally healthy;

- d. being registered and having Social Security membership number; and
- e. possessing the required documents.

Part Three
Rights and Obligations

Article 6

- (1) Every Prospective Indonesian Migrant Worker or Indonesian Migrant Worker has rights to:
 - a. get a job abroad and choose a job in accordance with their competencies;
 - b. get an access to self-improvement through education and job training;
 - c. get accurate information concerning labour market, placement procedures, and work conditions abroad;
 - d. get a professional and humane service as well as non-discriminative treatment before, during, and after working;
 - e. worship in accordance with their own religion and belief;
 - f. receive wage in accordance with the wage standard that applies in the destination country and/or agreement between two countries and/or Employment Contract;
 - g. get legal protection and assistance for treatments that can demean human dignity in accordance with the legislation in Indonesia and in destination country;
 - h. get an explanation concerning the rights and the obligations as contained in Employment Contract;
 - i. get a communication access;
 - j. possess travel documents during working;
 - k. associate and socialize in destination country in accordance with the legislation in destination country;
 - l. get a safety and security protection for Indonesian Migrant Worker's repatriation to their hometown; and/or

- m. get documents and Employment Contract of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Worker.
- (2) Every Indonesian Migrant Worker has obligations to:
- a. comply with the legislation, both in country and in destination country;
 - b. respect the traditions or customs that apply in destination country;
 - c. comply with and do their job in accordance with Employment Contract; and
 - d. report the arrival, location, and repatriation of Indonesian Migrant Workers to Indonesian Missions in destination country.
- (3) Every Family of Indonesian Migrant Workers has rights to:
- a. get information concerning the conditions, problems, and repatriation of Indonesian Migrant Workers;
 - b. receive all possessions of Indonesian Migrant Workers who die abroad;
 - c. get copy of documents and Employment Contract of Prospective Indonesian Migrant Worker and/or Indonesian Migrant Worker; and
 - d. get a communication access.

CHAPTER III

PROTECTION OF INDONESIAN MIGRANT WORKERS

Part One

General

Article 7

Protection of Prospective Indonesian Migrant Workers or Indonesian Migrant Workers covers:

- a. Before Working Protection ;
- b. During Working Protection ; and
- c. After Working Protection.

Part Two
Before Working Protection

Article 8

- (1) Before Working Protection as referred to in Article 7 point a covers:
 - a. administrative protection; and
 - b. technical protection
- (2) Administrative Protection as referred to in section (1) point a at the minimum covers:
 - a. completeness and validity of placement documents; and
 - b. determination of work conditions and terms of employment.
- (3) Technical protection as referred to in section (1) point b at the minimum covers:
 - a. socialization and dissemination of information;
 - b. quality improvement of Prospective Indonesian Migrant Workers through education and job training;
 - c. Social Security;
 - d. facilitate the fulfillment of Prospective Indonesian Migrant Workers' rights;
 - e. role strengthening for work agent functional staff;
 - f. placement service in one-stop service and protection of Indonesian Migrant Workers; and
 - g. coaching and supervision.

Article 9

- (1) Information as referred to in Article 6 section (1) point c and demands for Indonesian Migrant Workers come from:
 - a. Indonesian Missions in destination country;
 - b. Business Partner in destination country; and/or
 - c. prospective Employer, both individual and foreign business entity in destination country.
- (2) Information and demands for Indonesian Migrant Workers that come from Business Partner and prospective Employer in destination country as referred to in Article 6 section (1)

point c must be verified by labour attaché and/or appointed foreign affairs official.

Article 10

- (1) Labour attaché and/or appointed foreign affairs official in destination country is obligated to conduct a verification on:
 - a. Business Partners; and
 - b. prospective Employers.
- (2) Based on the result of verification on Business Partners and prospective Employers as referred to in section (1), labour attaché and/or appointed foreign affairs official determine problematic Employers and Business Partners in the list of problematic Employers and Business Partners.
- (3) Labour attaché and/or appointed foreign affairs official are obligated to announce the list of problematic Business Partners and prospective Employers periodically.
- (4) The result of verification on Business Partners and prospective Employers as referred to in section (2) becomes a recommendation material in issuing placement license for Indonesian Migrant Workers Placement Agency that has a partnership with the problematic Business Partners.

Article 11

- (1) Central Government distributes the information and demands for Indonesian Migrant Workers to regency/municipal Government through provincial Government.
- (2) Regency/municipal Government conducts a dissemination concerning the information and demands for Indonesian Migrant Workers as referred to in section (1) to the public by involving Village Government apparatus.

Article 12

- (1) Prospective Indonesian Migrant Workers are obligated to follow all the required process before working.
- (2) Further provisions regarding the required process are regulated with Regulation of Head of Board.

Article 13

In order to be placed abroad, Prospective Indonesian Migrant Workers are obligated to have following documents:

- a. statement of marital status, for those who have married disclose a copy of marriage book;
- b. letter of consent from husband or wife, parental consent, guardianship consent that is acknowledged by village head or *lurah*;
- c. certificate of work competency;
- d. health certificate based on medical examination and psychology assessment;
- e. passport that is issued by local immigration office;
- f. Work Visa;
- g. Indonesian Migrant Workers Placement Agreement; and
- h. Employment Contract.

Article 14

Employment relationship between Employer and Indonesian Migrant Worker is based on the Employment Contract that contains job, wage, and commands components.

Article 15

- (1) Employment relationship between Employer and Indonesian Migrant Worker occurs after the Employment Contract as referred to in Article 14 is agreed and signed by the parties.
- (2) Employment Contract as referred to in section (1) at least consists of:
 - a. name, profile, and complete address of Employer;
 - b. name and complete address of Indonesian Migrant Worker;
 - c. position or type of job of Indonesian Migrant Worker;
 - d. rights and obligations of the parties;
 - e. work conditions and terms of employment that cover work hours, wage and procedure of payment, rights to take leaves and break time, as well as the facilities and Social Security and/or insurances;

- f. time period of Employment Contract; and
 - g. security and safety assurances for Indonesian Migrant Worker during working.
- (3) Further provisions regarding the standard of Employment Contract, signing, and verification are regulated in the Regulation of Head of Board.

Article 16

Time period of Employment Contract as referred to in Article 15 section (2) point f is set based on a written agreement between Indonesian Migrant Worker and Employer and it can be extended.

Article 17

Extension of Employment Contract time period as referred to in Article 16 is conducted in front of an authorized official in Indonesian Missions office in destination country.

Article 18

Employment Contract as referred to in Article 15 cannot be changed without the approval of the parties.

Article 19

- (1) Indonesian Migrant Workers Placement Agency is obligated to place Prospective Indonesian Migrant Worker in accordance with the position and type of job as contained in the Employment Contract.
- (2) Indonesian Migrant Workers Placement Agency that does not place Prospective Indonesian Migrant Worker in accordance with the position and type of job as contained in the Employment Contract as referred to in section (1) is imposed an administrative sanction.

Article 20

Further provisions regarding the procedures for Before Working Protection as referred to in Article 8 to Article 19 are regulated with Government Regulation.

Part Three
During Working Protection

Article 21

- (1) During Working Protection as referred to in Article 7 point b covers:
 - a. data collection and registration by labour attaché or appointed foreign affairs official;
 - b. supervision and evaluation on Employers, jobs, and work conditions;
 - c. facilitation of the fulfillment of rights of Indonesian Migrant Workers;
 - d. facilitation of the settlement of labour cases;
 - e. provision of consular service;
 - f. assistance, mediation, advocacy, and legal assistance provision in the form of advocate services by Central Government and/or Indonesian Missions as well as guardianship in accordance with the local State law;
 - g. development on Indonesian Migrant Workers; and
 - h. facilitation of repatriation.
- (2) Protection of Indonesian Migrant Workers during working as referred to in section (1) is conducted without taking over criminal and/or civil responsibilities of Indonesian Migrant Workers and conducted in accordance with the legislation, law in destination country, as well as international law and custom.

Article 22

- (1) In order to increase bilateral relationship in manpower and Protection of Indonesian Migrant Workers abroad, Central Government determines the labour attaché position in Indonesian Missions in certain countries.
- (2) The assignment of labour attaché is conducted in accordance with the legislation.
- (3) Official who is appointed as labour attaché has an employment competency and diplomatic status.

- (4) Further provisions regarding the duties and the authorities of labour attaché are regulated with Presidential Regulation.

Article 23

Further provisions regarding the procedures for During Working Protection as referred to in Article 21 are regulated with Government Regulation.

Part Four

After Working Protection

Article 24

- (1) After Working Protection as referred to in Article 7 point c covers:
 - a. facilitation of the repatriation until their hometowns;
 - b. settlement of rights of Indonesian Migrant Workers that have not been fulfilled;
 - c. facilitation of the arrangement of Indonesian Migrant Workers who are sick and dead;
 - d. social rehabilitation and social reintegration; and
 - e. empowerment of Indonesian Migrant Workers and their families.
- (2) After Working Protection as referred to in section (1) is conducted by Central Government along with Local Governments.

Article 25

- (1) Indonesian Migrant Workers Placement Agency is obligated to report the data of Indonesian Migrant Workers' repatriation and/or data of Indonesian Migrant Workers' Employment Contract extension to Indonesian Missions in destination country.
- (2) Indonesian Missions are obligated to conduct verification on the report as referred to in section (1).
- (3) Indonesian Migrant Workers Placement Agency that does not report the data of Indonesian Migrant Workers' repatriation and/or data of Indonesian Migrant Workers'

Employment Contract extension to Indonesian Missions in destination country as referred to in section (1) is subject to an administrative sanction.

Article 26

Based on the verification result as referred to in Article 25 section (2), Indonesian Migrant Workers who have no problems can:

- a. go through the repatriation process; or
- b. extend the Employment Contract.

Article 27

- (1) The repatriation of Indonesian Migrant Workers as referred to in Article 26 point a, may happen due to:
 - a. the end of Employment Contract;
 - b. leaves;
 - c. termination of employment relationship before the period in Employment Contract ends;
 - d. work accidents and/or sickness that cause the inability to perform the job any longer;
 - e. assaults or other forms of violence;
 - f. war, natural disaster, or epidemic in destination country;
 - g. deportation by the government of destination country;
 - h. death in destination country; and/or
 - i. other causes that harms Indonesian Migrant Workers.
- (2) In the event that Indonesian Migrant Workers die in destination country as referred to in section (1) point h, Indonesian Migrant Workers Placement Agency is obligated to:
 - a. inform the death of Indonesian Migrant Workers to their families at the latest 3 (three) times 24 (twenty-four) hours since the death is known;
 - b. seek information concerning the cause of death and inform it to the official of Indonesian Missions and family members of the Indonesian Migrant Worker;

- c. return the remains of Indonesian Migrant Workers to their hometowns in an appropriate manner and cover all the expenses, including funeral expenses in accordance with the religious custom of the Indonesian Migrant Worker;
 - d. organize the funeral in the destination country of Indonesian Migrant Worker based on the approval of Indonesian Migrant Worker's family or in accordance with the prevailing law in the destination country;
 - e. give protection to all possessions of Indonesian Migrant Worker for the sake of their families; and
 - f. handle the fulfillment of all rights of Indonesian Migrant Worker that must be received.
- (3) Indonesian Migrant Workers Placement Agency that does not fulfill the obligations as referred to in section (2) is subject to administrative sanctions.

Article 28

Further provisions regarding the procedures for After Working Protection as referred to in Article 24 to Article 27 are regulated by Government Regulation.

Part Five

Social Security for Indonesian Migrant Workers

Article 29

- (1) In the effort of Protection of Indonesian Migrant Workers, Central Government manages Social Security for Indonesian Migrant Workers and their families.
- (2) Management of Social Security program for Indonesian Migrant Workers and their families is a part of National Social Security System.
- (3) Management of Social Security as referred to in section (1) is conducted by Social Security Agency.
- (4) For certain risks that are not covered in the Social Security, Labour Social Security Agency may cooperate with government or private institutions.

- (5) Further provisions regarding Social Security for Indonesian Migrant Workers are regulated by Ministerial Regulation.

Part Six
Financing

Article 30

- (1) Indonesian Migrant Workers cannot be borne with placement cost.
- (2) Further provisions regarding placement cost as referred to in section (1) are regulated by Regulation of the Head of Board.

Part Seven
Legal, Social, and Economic Protections

Paragraph 1
Legal Protection

Article 31

Indonesian Migrant Workers can only work in destination country that:

- a. has legislation that protects foreign workers;
- b. has a written agreement between the government of destination country and the Government of the Republic of Indonesia; and/or
- c. has a Social Security system and/or insurance that protects foreign workers.

Article 32

- (1) Central Government may stop and/or prohibit the placement of Indonesian Migrant Workers for certain countries or certain positions abroad based on following considerations:
 - a. security;
 - b. human rights protection;

- c. equal job opportunities; and/or
 - d. labour availability in accordance with the national needs.
- (2) In stopping and/or prohibiting the placement of Indonesian Migrant Workers as referred to in section (1), Central Government takes into account the suggestion and consideration from Indonesian Missions, ministry/institution, Indonesian Migrant Workers Placement Agency, and the public.
 - (3) Determination of certain countries or certain jobs as referred to in section (1) is conducted by Central Government.
 - (4) Further provisions regarding the termination and prohibition of Indonesian Migrant Workers placement as referred to in section (1) are regulated by Ministerial Regulation.

Article 33

Central Government and Local Government provide legal protection for Indonesian Migrant Workers in accordance with the legislation, law in destination country, as well as international law and custom.

Paragraph 2

Social Protection

Article 34

Central Government and Local Government in accordance with their authorities are obligated to provide social protection to Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers through:

- a. quality improvement of education and job training through standardization of job training competency;
- b. increasing role of accreditation and certification institutions;
- c. provision of competent teachers and trainers;

- d. social reintegration through skill improvement service, both for Indonesian Migrant Workers and their families;
- e. women and children protection policy; and
- f. establishment of the centre of Protection of Indonesian Migrant Workers in destination country.

Paragraph 3

Economic Protection

Article 35

Central Government and Local Government in accordance with their authorities are obligated to provide economic protection for Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers through:

- a. management of remittance by involving banking institution and non-banking financial institution in the country and in destination country;
- b. financial education so that Indonesian Migrant Workers and their families can manage the remittance; and
- c. entrepreneurship education.

Article 36

Further provisions regarding legal protection, social protection, and economic protection for Prospective Indonesian Migrant Workers and/or Indonesian Migrant Worker as referred to in Article 31 to Article 35 are regulated by Government Regulation.

Part Eight

Administrative Sanctions

Article 37

- (1) Administrative sanctions as referred to in Article 19 section (2), Article 25 section (3), and Article 27 section (3) are in the forms of:
 - a. written warning;
 - b. temporary suspension of some or all business activities; or

- c. revocation of license.
- (2) Further provisions regarding the procedures for the imposition of administrative sanctions as referred to in section (1) are regulated by Ministerial Regulation.

CHAPTER IV
ONE -STOP SERVICE FOR THE PLACEMENT AND PROTECTION
OF INDONESIAN MIGRANT WORKERS

Article 38

- (1) Service for the placement and Protection of Indonesian Migrant Workers is conducted by Central Government and Local Government in a coordinated and integrated manner.
- (2) In providing the service for placement and protection as referred to in section (1), Local Government establishes one-stop service.
- (3) One-stop service as referred to in section (2) aims to:
 - a. achieve the effectiveness of managing placement and Protection of Indonesian Migrant Workers service;
 - b. provide efficiency and transparency in handling documents for placement and protection of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers; and
 - c. accelerate the service quality improvement for Indonesian Migrant Workers.
- (4) Further provisions regarding one-stop service are regulated by Government Regulation.

CHAPTER V
DUTIES AND RESPONSIBILITIES OF CENTRAL GOVERNMENT
AND LOCAL GOVERNMENT

Part One
Central Government

Article 39

Central Government has duties and responsibilities to:

- a. ensure the protection of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers and their families;
- b. regulate, develop, manage, and supervise the implementation of Indonesian Migrant Workers placement;
- c. ensure the fulfillment of rights of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers and their families;
- d. establish and develop an integrated information system in the implementation of placement and Protection of Indonesian Migrant Workers;
- e. coordinate inter-institutional cooperation concerning response to complaints and case handling of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers;
- f. organize the repatriation of Indonesian Migrant Workers in the event of war, natural disaster, epidemic, deportation, and problematic Indonesian Migrant Workers;
- g. make an effort to ensure the optimal fulfillment of rights and Protection of Indonesian Migrant Workers in destination country;
- h. formulate a policy concerning the Protection of Indonesian Migrant Workers and their families;
- i. stop or prohibit the placement of Indonesian Migrant Workers for certain countries or certain jobs abroad;
- j. allow certain countries or certain jobs for the placement of Indonesian Migrant Workers;
- k. issue and revoke SIP3MI;
- l. issue and revoke SIP2MI;
- m. conduct inter-institutional coordination concerning the policy for Protection of Indonesian Migrant Workers;
- n. appoint an official as labour attaché that is stationed in Indonesian Mission offices based on Minister's recommendation; and
- o. provide and facilitate the training for Prospective Indonesian Migrant Workers through vocational training of which budget comes from educational function.

Part Two
Provincial Government

Article 40

Provincial Government has duties and responsibilities to:

- a. manage education and job training by educational institutions and job training institutions owned by government and/or accredited private;
- b. organize the repatriation of Indonesian Migrant Workers in the event of war, natural disaster, epidemic, deportation, and problematic Indonesian Migrant Workers in accordance with their respective authorities;
- c. issue the license for branch office of Indonesian Migrant Workers Placement Agency;
- d. report the result of evaluation on Indonesian Migrant Workers Placement Agency in levels and periodically to the Minister;
- e. provide Protection of Indonesian Migrant Workers before and after working;
- f. provide assistance and service office in departure and arrival areas of Indonesian Migrant Workers that comply with health requirements and standards;
- g. provide and facilitate training for Prospective Indonesian Migrant Workers through vocational training of which budget comes from educational function;
- h. regulate, develop, manage, and supervise the implementation of Indonesian Migrant Workers placement; and
- i. be able to establish one-stop service for the placement and Protection of Indonesian Migrant Workers in provincial level.

Part Three
Regency/Municipal Government

Article 41

Regency/Municipal Government has duties and responsibilities to:

- a. disseminate the information and demand for Indonesian Migrant Workers to the public;
- b. establish database of Indonesian Migrant Workers;
- c. report the result of evaluation on Indonesian Migrant Workers Placement Agency periodically to provincial Government;
- d. organize the repatriation of Indonesian Migrant Workers in the event of war, natural disaster, epidemic, deportation, and problematic Indonesian Migrant Workers in accordance with their respective authorities;
- e. provide Protection of Indonesian Migrant Workers before and after working in regency/municipality within their respective duties and authorities;
- f. manage education and job training for Prospective Indonesian Migrant Workers which can be done in cooperation with educational institutions and job training institutions owned by government and/or accredited private.
- g. conduct development and supervision for educational institutions and job training institutions in regency/municipality;
- h. perform social and economic reintegration for Indonesian Migrant Workers and their families;
- i. provide and facilitate training for Prospective Indonesian Migrant Workers through vocational training of which budget comes from educational function;
- j. regulate, develop, manage, and supervise the implementation of Indonesian Migrant Workers placement; and
- k. be able to establish one-stop service for the placement and Protection of Indonesian Migrant Workers in regency/municipal level.

Part Four

Village Government

Article 42

Village Government has duties and responsibilities to:

- a. receive and provide information and job demand from institution that manage government affairs in manpower sector;
- b. conduct a data verification and record the data of Prospective Indonesian Migrant Workers;
- c. facilitate the fulfillment of citizenship administrative requirements of Indonesian Migrant Workers;
- d. supervise the departure and the repatriation of Indonesian Migrant Workers; and
- e. empower Prospective Indonesian Migrant Workers, Indonesian Migrant Workers, and their families.

Article 43

Further provisions regarding the duties and responsibilities of Central Government and Local Government are regulated by Government Regulation.

CHAPTER VI INSTITUTION

Article 44

Implementation of government's duties in the Protection of Indonesian Migrant Workers is conducted by ministry and Board.

Article 45

Minister as a policy maker:

- a. formulates norm and standard concerning:
 - 1) Protection of Indonesian Migrant Workers;
 - 2) supervision of placement implementation;
 - 3) determination of Social Security organizer;
 - 4) fulfillment of rights for Indonesian Migrant Workers;
- b. supervises and evaluates the implementation of Indonesian Migrant Workers Protection policy;
- c. cooperates with other countries in order to ensure the fulfillment of rights and Protection of Indonesian Migrant Workers through coordination with the minister administering government in the field of foreign affairs;

- d. terminates or prohibits the placement of Indonesian Migrant Workers in certain countries or certain jobs/professions;
- e. issues and revokes SIP3MI based on the recommendation of head of Board at the latest 60 (sixty) calendar days as of the recommendation date;
- f. recommends labour attaché official to the minister administering government in the field of foreign affairs;
- g. conducts social and economic empowerment for former Indonesian Migrant Workers; and
- h. conducts other duties within their respective authorities.

Article 46

- (1) Duty on Protection of Indonesian Migrant Workers is carried out by Board that is established by the President.
- (2) The Board as referred to in section (1) is led by head of Board who is appointed by the President and is responsible to the President through Minister.
- (3) The Board as referred to in section (2) is a non-ministerial government institution that serves as the policy implementer in service and Protection of Indonesian Migrant Workers in an integrated manner.

Article 47

The head of Board as a policy maker:

- a. implements the policy for placement and Protection of Indonesian Migrant Workers to:
 - 1) serve and protect Indonesian Migrant Workers;
 - 2) issue and revoke SIP2MI;
 - 3) conduct the placement service;
 - 4) supervise the implementation of Social Security service;
 - 5) fulfill the rights of Indonesian Migrant Workers;
 - 6) verify documents of Indonesian Migrant Workers;
- b. organizes the placement and Protection of Indonesian Migrant Workers through cooperation between Central Government and destination countries;

- c. recommends the revocation of SIP3MI to the Minister for Indonesian Migrant Workers Placement Agency;
- d. provides During Working Protection by coordinating with Indonesian Missions in destination countries;
- e. facilitates, rehabilitates, and reintegrates former Indonesian Migrant Workers;
- f. conducts social and economic empowerment for former Indonesian Migrant Workers; and
- g. conducts other duties within their respective authorities.

Article 48

Further provisions regarding the establishment, functions, duties, organizational structure, and work procedures of Agency are regulated by Presidential Regulation.

CHAPTER VII

OPERATOR OF INDONESIAN MIGRANT WORKERS PLACEMENT

Part One

General

Article 49

Operator of Indonesian Migrant Workers placement abroad consists of:

- a. Board;
- b. Indonesian Migrant Workers Placement Agency; or
- c. company that places Indonesian Migrant Workers for the company's interest.

Article 50

- (1) Placement of Indonesian Migrant Workers by Agency as referred to in Article 49 point a, is conducted based on a written agreement between the government and the government of Employer country or Employer that is legally incorporated in destination country.
- (2) Further provisions regarding the procedures of Indonesian Migrant Workers placement as referred to in section (1) are regulated by Government Regulation.

Article 51

- (1) Company that will become Indonesian Migrant Workers Placement Agency as referred to in Article 49 point b is obligated to obtain written permit in the form of SIP3MI from the Minister.
- (2) SIP3MI as referred to in section (1) cannot be transferred and handed over to another party.
- (3) Further provisions regarding the written permit in the form of SIP3MI as referred to in section (1) are regulated by Ministerial Regulation.

Article 52

- (1) Indonesian Migrant Workers Placement Agency as referred to in Article 49 point b has duties and responsibilities to:
 - a. seek job opportunities;
 - b. place Indonesian Migrant Workers; and
 - c. settle the problems of Indonesian Migrant Workers who are placed by them.
- (2) Further provisions regarding the duties and responsibilities of Indonesian Migrant Workers Placement Agency as referred to in section (1) are regulated by Government Regulation.

Article 53

- (1) Indonesian Migrant Workers Placement Agency may establish branch office outside the territory of its head office domicile.
- (2) Activities conducted by the branch office of Indonesian Migrant Workers Placement Agency become the responsibilities of Indonesian Migrant Workers Placement Agency's head office.
- (3) Branch office as referred to in section (1) is obligated to be registered in provincial Government.
- (4) Further provisions regarding the procedures for the establishment of Indonesian Migrant Workers Placement Agency's branch office as referred to in section (1) are regulated by Ministerial Regulation.

Article 54

- (1) In order to obtain SIP3MI as referred to in Article 51 section (1), Indonesian Migrant Worker Placement Agency must fulfill following requirements:
 - a. having a paid-up capital in the deed of establishment of at least Rp5,000,000,000 (five billion rupiah);
 - b. depositing money to a government bank in the form of a deposit of at least Rp1,500,000,000 (one billion five hundred million rupiah) that can be disbursed at any time as a collateral to fulfill the obligations in the Protection of Indonesian Migrant Workers;
 - c. having a work plan for the placement and Protection of Indonesian Migrant Workers at the shortest for 3 (three) years running; and
 - d. having facilities and infrastructures for Indonesian Migrant Workers placement service.
- (2) Deposit as referred to in section (1) point b, can only be disbursed by the Minister if the Indonesian Migrant Workers Placement Agency does not fulfill the obligations toward Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers.
- (3) In accordance with the circumstances, the amount of paid-up capital as referred to in section (1) point a and collateral in the form of deposit as referred to in section (1) point b, can be reviewed and changed by the Ministerial Regulation.

Article 55

- (1) Indonesian Migrant Workers Placement Agency is obligated to add the cost for dispute settlement of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers if the deposit is insufficient.
- (2) Minister returns the deposit to Indonesian Migrant Workers Placement Agency if the SIP3MI validity period ends, is not extended, or is revoked after the companies fulfill all of their obligations.
- (3) Further provisions regarding the deposit, use, disbursement, and return of deposit as referred to in

section (1) and section (2) are regulated by Ministerial Regulation.

Article 56

Indonesian Migrant Workers Placement Agency that does not add the cost for dispute settlement of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers if the deposit is insufficient as referred to in Article 54 section (1) point b is subject to administrative sanctions.

Article 57

- (1) SIP3MI is given for the time period of 5 (five) years and can be extended once in every 5 (five) years after receiving recommendation from Board.
- (2) In addition to the must to fulfill the requirements as referred to in Article 54 section (1), the extension of SIP3MI as referred to in section (1) may be provided to Indonesian Migrant Workers Placement Agency to fulfill these minimum requirements:
 - a. having fulfilled their obligations to submit periodic report to the Minister;
 - b. having conducted placement at least 75% (seventy-five percent) of the placement plan at the time SIP3MI is obtained;
 - c. still having facilities and infrastructures that are in accordance with the established standards;
 - d. having a positive balance sheet for the last 2 (two) years that is audited by public accountant;
 - e. being not in suspension; and
 - f. having reported and submitted the requirements as referred to in Article 54 section (1) for re-validation.
- (3) Indonesian Migrant Workers Placement Agency must submit the data update and fulfill the requirements as referred to in section (2) not later than 30 (thirty) work days.
- (4) In the event that Indonesian Migrant Workers Placement Agency does not submit the data update as referred to in section (3), Indonesian Migrant Workers Placement Agency

is allowed to renew the SIP3MI not later than 30 (thirty) work days by paying overdue fine.

- (5) Further provisions regarding the overdue fine as referred to in section (4) are regulated by Ministerial Regulation.

Article 58

- (1) Minister revokes SIP3MI if the Indonesian Migrant Workers Placement Agency:
 - a. no longer fulfills the requirements as referred to in Article 54 section (1); or
 - b. does not fulfill its obligations and responsibilities and/or violates the prohibition in the placement and Protection of Indonesian Migrant Workers as regulated in this Law.
- (2) Revocation of SIP3MI by the Minister as referred to in section (1), does not lessen the responsibilities of Indonesian Migrant Workers Placement Agency toward Indonesian Migrant Workers who have been placed and are still abroad.

Article 59

- (1) Indonesian Migrant Workers Placement Agency that will conduct placement is obligated to own SIP2MI.
- (2) SIP2MI as referred to in section (1) cannot be transferred and handed over to another party.
- (3) SIP2MI as referred to in section (1) must list the destination countries.
- (4) In order to obtain SIP2MI as referred to in section (1), Indonesian Migrant Workers Placement Agency must have these following documents:
 - a. Placement Cooperation Agreement;
 - b. letter of Indonesian Migrant Worker request from Employer;
 - c. draft Placement Agreement; and
 - d. draft Employment Contract.

Article 60

Further provisions regarding the placement of Indonesian Migrant Workers by Indonesian Migrant Workers Placement Agency are regulated by Ministerial Regulation.

Article 61

- (1) Companies may place their workers abroad for the interests of the companies.
- (2) Companies are obligated to be responsible for the protection of their workers who are placed abroad for the interests of the companies.
- (3) Further provisions regarding the placement of workers by companies for the companies' interests as referred to in section (1) are regulated by Ministerial Regulation.

Article 62

Companies which are not responsible for the protection of workers who are placed abroad for the companies' interests as referred to in Article 61 section (2) are subject to administrative sanctions.

Article 63

- (1) Individual Indonesian Migrant Workers can work abroad for legally incorporated Employer.
- (2) All risks of employment faced by Individual Indonesian Migrant Workers become their own responsibilities.
- (3) Individual Indonesian Migrant Workers as referred to in section (1) are obligated to report to the institution administering government affairs in manpower sector and Indonesian Missions.
- (4) Further provisions regarding Individual Indonesian Migrant Workers as referred to in section (1) are regulated by Ministerial Regulation.

Article 64

Further provisions regarding the placement and protection of seafarers and fishermen as referred to in Article 4 section (1) point c are regulated by Government Regulation.

Part Two
Prohibitions

Article 65

Every Person is prohibited from providing inaccurate data and information in filling out the documents as referred to in Article 13.

Article 66

Every Person is prohibited from placing Indonesian Migrant Worker who does not meet age requirement as referred to in Article 5 point a.

Article 67

Every Person is prohibited from placing Prospective Indonesian Migrant Worker in:

- a. jobs and type of works that do not match the Employment Contract so they harm Prospective Indonesian Migrant Worker as referred to in Article 19 section (2); or
- b. works that violate the legislation.

Article 68

Every Person is prohibited from conducting placement that does not fulfill the requirements of Indonesian Migrant Worker as referred to in Article 5 point b to point e.

Article 69

Individual Person is prohibited from conducting placement of Indonesian Migrant Workers.

Article 70

- (1) Every official is prohibited from sending Indonesian Migrant Workers who do not fulfill required documents as referred to in Article 13.
- (2) Every official is prohibited from holding the departure of Indonesian Migrant Workers who have fulfilled required documents as referred to in Article 13.

Article 71

Every Person is prohibited from:

- a. placing Indonesian Migrant Workers in works that do not match the Employment Contracts that have been agreed and signed by Indonesian Migrant Workers;
- b. placing Indonesian Migrant Workers in jobs that do not match their expertise, skills, talents, interests, and abilities;
- c. transferring or handing over SIP3MI to another party; or
- d. transferring or handing over SIP2MI to another party.

Article 72

Every Person is prohibited from:

- a. charging components of placement cost that have been borne by prospective Employer to Prospective Indonesian Migrant Workers;
- b. placing Prospective Indonesian Migrant Workers to certain prohibited countries;
- c. placing Indonesian Migrant Workers without SIP2MI; or
- d. placing Indonesian Migrant Workers to destination country that does not have legislation that protects foreign workers, does not have written agreement between destination country and the government of the Republic of Indonesia, and/or does not have Social Security and/or insurance system that protects foreign workers.

Article 73

Official, employee, staff, and every Person that have authority to conduct the activities for placement and Protection of Indonesian Migrant Workers are prohibited from holding double positions as a commissioner or management of Indonesian Migrant Workers Placement Agency and/or business organization that is related to the placement of Indonesian Migrant Workers.

Part Three

Administrative Sanctions

Article 74

- (1) Administrative sanctions as referred to in Article 56 and Article 62 are in the form of:

- a. written warning;
 - b. suspension of some or all business activities; or
 - c. revocation of license.
- (2) Further provisions regarding the procedures for the imposition of administrative sanctions as referred to in section (1) are regulated by Ministerial Regulation.

CHAPTER VIII DEVELOPMENT AND SUPERVISION

Part One Development

Article 75

- (1) Central Government and Local Government develop institutions that are related to the placement and Protection of Indonesian Migrant Workers.
- (2) Development as referred to in section (1) is conducted in an integrated and coordinated manner.
- (3) Further provisions regarding development as referred to in section (1) are regulated by Government Regulation.

Part Two Supervision

Article 76

- (1) Central Government and Local Government supervise the implementation of placement and Protection of Indonesian Migrant Workers.
- (2) Central Government and Local Government in supervising as referred to in section (1) may involve the public.
- (3) Further provisions regarding the supervision on the implementation of placement and Protection of Indonesian Migrant Workers are regulated by Government Regulation.

CHAPTER IX DISPUTE SETTLEMENT

Article 77

- (1) In the event of dispute between Indonesian Migrant Workers and placement organizer concerning the implementation of

Placement Agreement, the settlement is conducted through deliberation.

- (2) In the event that deliberation as referred to in section (1) is not achieved, one or both parties can request for assistance in settling the dispute to the institution that is responsible for manpower sector in regency/municipal Government, provincial Government, or Central Government.
- (3) In the event that dispute settlement as referred to in section (2) is not achieved, one or both parties may file a lawsuit to court in accordance with the legislation.

CHAPTER X INVESTIGATION

Article 78

- (1) Other than investigators of Indonesian National Police, certain civil servant officials in Central Government and Local Government institutions that are responsible in manpower sector are given special authority as investigators as referred to in Criminal Procedure Law, to conduct criminal offence investigation under this Law.
- (2) Civil servant investigators as referred to in section (1) are authorized to:
 - a. conduct an investigation concerning the truth of manpower criminal offence report;
 - b. conduct investigation on the suspects of manpower criminal offence;
 - c. request for information and evidence from people or legal entity in connection with manpower criminal offence;
 - d. conduct investigation or confiscation of evidence in manpower criminal offence;
 - e. conduct examination on letters and/or other documents concerning manpower criminal offence;
 - f. request for expert's assistance in the investigation of manpower criminal offence; and

- g. terminate investigation if there is no sufficient evidence concerning the manpower criminal offence.
- (3) In exercising their authorities, civil servant investigators as referred to in section (2) coordinate with civil servant investigators of related institution.
- (4) Authorities of civil servant investigators as referred to in section (2) are exercised in accordance with the legislation.

CHAPTER XI CRIMINAL PROVISIONS

Article 79

Every Person who deliberately provides inaccurate data and information in filling out documents as referred to in Article 65 is sentenced to imprisonment for a maximum of 2 (two) years and/or fined for a maximum of Rp200,000,000 (two hundred million rupiah).

Article 80

Every Person who places Indonesian Migrant Worker, even though it is known or suspected that the migrant does not meet the age requirement as referred to in Article 66 is sentenced to imprisonment for a maximum of 3 (three) years and fined for a maximum of Rp500,000,000 (five hundred million rupiah).

Article 81

Individual Person who conducts the placement of Indonesian Migrant Workers as referred to in Article 69 is sentenced to imprisonment for a maximum of 10 (ten) years and fined for a maximum of Rp15,000,000,000 (fifteen billion rupiah).

Article 82

Being sentenced to imprisonment for a maximum of 10 (ten) years and fined for a maximum of Rp15,000,000,000 (fifteen billion rupiah), every Person who deliberately places Prospective Indonesian Migrant Workers in:

- a. jobs and type of works that do not match the employment contract so they harm the Prospective Indonesian Migrant Workers as referred to in Article 67 point a; or
- b. works that violate the legislation as referred to in Article 67 point b.

Article 83

Every Person who does not fulfill the requirements as referred to in Article 68 who deliberately conducts the placement of Indonesian Migrant Workers is sentenced to imprisonment for a maximum of 10 (ten) years or fined for a maximum of Rp15,000,000,000 (fifteen billion rupiah).

Article 84

- (1) Every official who deliberately sends Indonesian Migrant Workers who do not fulfill required documents as referred to in Article 70 section (1) is sentenced to imprisonment for a maximum of 5 (five) years and fined for a maximum of Rp1,000,000,000 (one billion rupiah).
- (2) Every official who deliberately holds the departure of Indonesian Migrant Workers who have fulfilled required documents as referred to in Article 70 section (2) is sentenced to imprisonment for a maximum of 5 (five) years and fined for a maximum of Rp1,000,000,000 (one billion rupiah).

Article 85

Being sentenced to imprisonment for a maximum of 5 (five) years and fined for a maximum of Rp5,000,000,000 (five billion rupiah), every person who:

- a. places Indonesian Migrant Workers in works that do not match the Employment Contracts that have been agreed and signed by Indonesian Migrant Workers as referred to in Article 71 point a;
- b. places Indonesian Migrant Workers in works that do not match their expertise, skills, talents, interests, and abilities as referred to in Article 71 point b;

- c. transfers or hands over SIP3MI to another party as referred to in Article 71 point c; or
- d. transfers or hands over SIP2MI to another party as referred to in Article 71 point d.

Article 86

Being sentenced to imprisonment for a maximum of 5 (five) years and fined for a maximum of Rp15,000,000,000 (fifteen billion rupiah), every Person who:

- a. charges the components of placement cost that have been borne by prospective Employer to Prospective Indonesian Migrant Workers as referred to in Article 72 point a;
- b. places Prospective Indonesian Migrant Workers to certain prohibited countries as referred to in Article 72 point b;
- c. places Indonesian Migrant Workers without SIP2MI as referred to in Article 72 point c; or
- d. places Indonesian Migrant Workers in destination countries as referred to in Article 72 point d.

Article 87

- (1) In the event that criminal offences as referred to in Article 65, Article 66, Article 67, Article 68, Article 71, and Article 72 are conducted by or on behalf of a corporation, the criminal prosecution and sentence can be given to corporation and/or its management.
- (2) Principal punishment that can be subject to the corporation is only fine punishment, under the condition maximum punishment is added by 1/3 (one third) of each fine punishment.
- (3) Other than principal punishment, corporation as referred to in section (2) can be subject to additional punishment in the form of revocation of license.

CHAPTER XII TRANSITIONAL PROVISION

Article 88

The National Board for the Placement and Protection of Indonesian Overseas Workers still performs its functions and duties until the establishment of Board under this Law.

CHAPTER XIII
CLOSING PROVISIONS

Article 89

At the time this Law comes into force:

- a. Law Number 39 of 2004 on Placement and Protection of Indonesian Workers Abroad (State Gazette of the Republic of Indonesia of 2004 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 4445), is repealed and declared ineffective.
- b. All legislation as implementing regulations of Law Number 39 of 2004 on Placement and Protection of Indonesian Workers Overseas (State Gazette of the Republic of Indonesia of 2004 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 4445) are declared to remain effective to the extent not contrary to the provisions in this Law.

Article 90

Implementing regulations of this Law must be issued not later than 2 (two) years as of this Law is promulgated.

Article 91

This Law comes into force on the date of its promulgation.

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

Enacted in Jakarta
on 22 November 2017

PRESIDENT OF
THE REPUBLIC OF INDONESIA,

signed

JOKO WIDODO

Promulgated in Jakarta
on 22 November 2017

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

signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2017 NUMBER 242

Jakarta, 12 September 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



ELUCIDATION
OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 18 OF 2017
ON
PROTECTION OF INDONESIAN MIGRANT WORKERS

I. GENERAL

The 1945 Constitution of the Republic of Indonesia ensures that every Indonesian citizen has equal right and opportunity without any discrimination to get a decent job and living. Working is a human right that must be upheld, respected, and its implementation must be guaranteed. Indonesian Migrant Workers must be protected from human trafficking, including slavery and forced labour, violence, arbitrariness, crimes against humanity, as well as other treatments that violate human rights. Protection of Indonesian Migrant Workers is necessary to be conducted in an integrated system that involves Central Government, Local Government, and the public.

Protection of Indonesian Migrant Workers covers institutional protection that regulates duties and authorities of ministry as a regulator/policy maker with Board as operator/policy implementer.

This will provide clarity on the duties and authorities of ministry and Board, considering that the prevailing problem is the dualism of authorities between those parties. Duty to protect Indonesian Migrant Workers is managed by Board that is established by the President.

Furthermore, the role of Local Government in providing protection to Indonesian Migrant Workers is performed starting from village, regency/municipality, and province, since before working until after working. Local Government has a role in providing information on job

order that comes from Indonesian Missions, Employers, and Business Partners abroad.

Local Government provides one-stop service as well as facilitates the departure and the repatriation of Indonesian Migrant Workers. Departed Indonesian Migrant Workers must have competencies or skills. Likewise, for Indonesian Migrant Workers after they work, Local Government cooperates with Central Government in providing entrepreneurship training for former Indonesian Migrant Workers and their families.

In order to provide easy, cheap, fast, and secure placement and protection services, one-stop services is conducted in accordance with Law Number 25 of 2009 on Public Services and Government Regulation Number 96 of 2012 on Implementation of Law Number 25 of 2009 on Public Services. One-stop service provides services in document requirement handling and administration of placement and protection of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers along with Central Government recruits and prepares administrative requirement service.

Job training is conducted by job training institutions owned by government or accredited private for Prospective Indonesian Migrant Workers.

This Law emphasizes and gives bigger role for the government and reduces private role in the placement and Protection of Indonesian Migrant Workers.

This Law also provides Social Security protection to Indonesian Migrant Workers that is previously managed by insurance companies that are part of insurance consortium with protection plan that covers pre-placement, placement period, and post-placement. The protection role is now transferred and managed by Social Security Agency (BPJS) in accordance with Law Number 40 of 2004 on National Social Security System and Law Number 24 of 2011 on Social Security Organizing Agency. For certain risks that are not covered by the Social Security program, BPJS can cooperate with government or private institutions.

Provisions that regulate the placement and protection of Indonesian Migrant Workers Overseas in Law Number 39 of 2004 on Placement and Protection of Indonesian Migrant Workers Overseas have not fulfilled the needs for Protection of Indonesian Migrant Workers. Law Number 39 of 2004 on Placement and Protection of Indonesian Migrant Workers

Overseas has not regulated the segregation of duties and authorizations among Central Government, Local Government, and private sector proportionally.

Based on those considerations, it is necessary to make a fundamental amendment to Law Number 39 of 2004 on Placement and Protection of Indonesian Migrant Workers Overseas, that is by formulating a new Law that focuses on Protection of Indonesian Migrant Workers. In this Law, the role to protect Indonesian Migrant Workers is given to government both central and local, from before, during, and after working. The private sector is only given a role as the operator of Indonesian Migrant Workers placement.

Protection of Prospective Indonesian Migrant Workers and Indonesian Migrant Workers aims to:

- a. ensure the fulfillment and enforcement of human rights as citizens and Indonesian Migrant Workers; and
- b. ensure legal, economic, and social protection for Indonesian Migrant Workers and their families.

The provisions in this Law cover Indonesian Migrant Workers who work for legally incorporated Employer, Indonesian Migrant Workers who work for individual Employer, seafarers and fishermen, rights and obligations of Indonesian Migrant Workers and their families, efforts in the Protection of Indonesian Migrant Workers including protection in placement system (before, during, and after working), labour attaché, one-stop service, financing system that benefits Prospective Indonesian Migrant Workers and Indonesian Migrant Workers, as well as legal, social, and economic protections. This Law also regulates the duties and authorities of Central Government and Local Government, as well as role and function of Board as the policy implementer of Protection of Indonesian Migrant Workers. In this Law, the Board for the Placement and Protection of Indonesian Migrant Workers that is established under Law Number 39 of 2004 is strengthened in its functions and roles as an operator of Indonesian Migrant Workers protection.

In the implementation of Protection of Indonesian Migrant Workers, firm supervision and law enforcement are needed. Supervision covers the protection before, during, and after working. Law enforcement covers administrative sanctions and criminal sanctions.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Point a

The term “principle of integration” means that Protection of Indonesian Migrant Workers must reflect the integration and synergy of all stakeholders.

Point b

The term “principle of equality of rights” means that Prospective Indonesian Migrant Workers have the same rights, opportunities, and treatments to get a decent job and living.

Point c

The term “principle of recognition of human rights and dignity” means that Protection of Indonesian Migrant Workers must reflect the respect for human existence as Almighty God’s creature as well as protection of human rights and dignity.

Point d

The term “principle of democracy” means that Indonesian Migrant Workers are given the same treatments and rights in expressing opinions, associating, and assembling.

Point e

The term “principle of social justice” means that the Protection of Indonesian Migrant Workers is conducted with regards to equity, non-discrimination, and balance between rights and obligations.

Point f

The term “principle of gender equality and fairness” means a condition where women and men have equal status and same condition to fully fulfill their human rights and potential to work abroad.

Point g

The term “principle of non-discrimination” means that Protection of Indonesian Migrant Workers is conducted without the difference in treatment that is directly or indirectly caused by human differentiation based on religion, tribe, race, ethnic,

group, class, social status, economic status, sex, language, and political ideology.

Point h

The term “principle of anti-human trafficking” means that there is no recruitment, transportation, sending, transfer, or receiving of Prospective Indonesian Migrant Workers or Indonesian Migrant Workers that is conducted under threats of violence, use of violence, abduction, captivity, forgery, deception, and abuse of power or vulnerable position, bribery or giving payment or benefits to obtain approval from the person who has control over other persons, either conducted in the country or cross-countries, with the purpose to exploit or cause Prospective Indonesian Migrant Workers or Indonesian Migrant Workers become exploited.

Point i

The term “principle of transparency” means that the Protection of Indonesian Migrant Workers is conducted in a transparent, clear, and fair manner.

Point j

The term “principle of accountability” means that every activity and final result of the implementation of Protection of Indonesian Migrant Workers must be accounted for the public in accordance with the legislation.

Point k

The term “principle of sustainability” means that the Protection of Indonesian Migrant Workers must fulfill all protection phases that cover before, during, and after working in order to ensure the welfare and prosperity in all aspects of life, both for the present time and the future.

Article 3

Sufficiently clear.

Article 4

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Sufficiently clear.

Article 7

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Section (1)

Sufficiently clear.

Section (2)

The term “Problematic Business Partners and prospective Employers” are the Employers and Business Partners that violate the provisions in this Law, in term of civil, administrative, and criminal issues.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Point a

Sufficiently clear

Point b

The term “letter of consent from husband or wife” is for those who are married, while “letter of parental consent or guardianship consent” is for those who are not married yet.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Section (1)

Sufficiently clear.

Section (2)

Point a

The term “complete address” is not only limited to the Mail Box but also the address that contains street name, house number, contactable telephone number, village name, administrative village (*kelurahan*) name, regency/municipal name, province name, country name or other terms in accordance with the destination country.

Point b

The term “complete address” is the address that contains street name, house number, neighbourhood group (*rukun tetangga*, RT)/community group (*rukun warga*, RW), contactable telephone number, village name, administrative village (*kelurahan*) name, sub-district name, regency/municipal name, province name.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

The term “security and safety assurances” means the work place that meets the requirements for Occupational Safety and Health.

Section (3)

Sufficiently clear.

Article 16

Sufficiently clear.

Article 17

The term “authorized official” refers to labour attaché, appointed foreign affairs official, or local worker who has competency and has been assigned.

Article 18

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear

Point d

Sufficiently clear

Point e

Sufficiently clear

Point f

Sufficiently clear

Point g

The term “development” means briefing activities to Indonesian Migrant Workers during their time in destination country.

Point h

The term “facilitation of repatriation” means the assistance to repatriate that is given to Indonesian Migrant Workers in the event of war, natural disaster, epidemic, deportation, and problematic Indonesian Migrant Workers.

Section (2)

Sufficiently clear.

Article 22

Section (1)

The term “certain countries” means destination countries with consideration of amount of placement and area of territory.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 23

Sufficiently clear.

Article 24

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

The term “social rehabilitation” means the recovery from mental social disorder and the return of social functioning in order to reasonably perform the role in the family and in the public.

The term “social reintegration” means the reintegration of problematic Indonesian Migrant Workers with their families or Family substitutes who can give protection and fulfill their needs.

Point e

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 25

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “certain risks” means new benefit program, among others are unilateral termination of employment and the repatriation of problematic Indonesian Migrant Workers.

Section (5)

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Point a

Sufficiently clear.

Point b

The term “written agreement between the government of destination country and the government of the Republic of Indonesia” means treaty in writing that covers agreement in public law, regulated by international law, and made by the Government along with the government of destination country.

Point c

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Sufficiently clear.

Article 34

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

Sufficiently clear.

Article 38

Section (1)

Sufficiently clear.

Section (2)

The term “one-stop service” means the service for Indonesian Migrant Workers that is conducted in an integrated manner by local instruments and Central Government in one place.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 39

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Point k

Sufficiently clear.

Point l

Sufficiently clear.

Point m

Sufficiently clear.

Point n

Sufficiently clear.

Point o

The term “vocational training” means the training that is given to Prospective Indonesian Migrant Workers by training institutions owned by government or accredited private.

Article 40

Sufficiently clear.

Article 41

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

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

Sufficiently clear.

Article 51

Sufficiently clear.

Article 52

Sufficiently clear.

Article 53

Sufficiently clear.

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.

Article 56

Sufficiently clear.

Article 57

Sufficiently clear.

Article 58

Sufficiently clear.

Article 59

Sufficiently clear.

Article 60

Sufficiently clear.

Article 61

Section (1)

The term “companies” means companies that place their own workers and have written permits given by the Minister for the interests of those companies.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 62

Sufficiently clear.

Article 63

Sufficiently clear.

Article 64

Sufficiently clear.

Article 65

Sufficiently clear.

Article 66

Sufficiently clear.

Article 67

Point a

Sufficiently clear.

Point b

Legislation in this provision among others is Law on Criminal Offence of Human Trafficking, Law on Pornography, Law on

Child Protection, Law on Domestic Violence, Law on Human Rights.

Article 68

Sufficiently clear.

Article 69

Individual Person in this provision among others is middleman or individual who has no authority to place Indonesian Migrant Workers.

Article 70

Sufficiently clear.

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

Sufficiently clear.

Article 78

Sufficiently clear.

Article 79

Sufficiently clear.

Article 80

Sufficiently clear.

Article 81

Sufficiently clear.

Article 82

Sufficiently clear.

Article 83

Sufficiently clear.

Article 84

Sufficiently clear.

Article 85

Sufficiently clear.

Article 86

Sufficiently clear.

Article 87

Sufficiently clear.

Article 88

Sufficiently clear.

Article 89

Sufficiently clear.

Article 90

Sufficiently clear.

Article 91

Sufficiently clear.

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