PRESIDEN
REPUBLIK INDONESIA

REGULATION OF GOVERNMENT OF THE REPUBLIC OF INDONESIA
NUMBER 34 OF 2021
ON
FOREIGN WORKERS UTILIZATION

BY THE BLESSINGS OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering : in order to implement the provisions for Article 81 and Article 185 point b of Law Number 11 of 2020 on Job Creation, it is necessary to issue a Government Regulation on the Foreign Workers Utilization;

Observing :
1. Article 5 section (2) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 13 of 2003 on Manpower (State Gazette of the Republic of Indonesia Number 39 of 2003, Supplement to the State Gazette of the Republic of Indonesia Number 4279);
3. Law Number 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia Number 245 of 2020, Supplement to State Gazette of the Republic of Indonesia Number 6573);

HAS DECIDED:

To issue : GOVERNMENT REGULATION ON FOREIGN WORKERS UTILIZATION.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Government Regulation:

1. Foreign Worker (*Tenaga Kerja Asing*), hereinafter referred to as TKA, means a foreign citizen holding visa with the intention of working in the territory of Indonesia.
2. Employer of TKA means a legal entity or other that employs foreign workers by paying wages or other forms of compensation.
3. Associate for Foreign Worker (*Tenaga Kerja Pendamping TKA*) means an Indonesian worker appointed by Employer of Foreign Worker and prepared as an assistant in the framework of technology transfer and transfer of expertise.
4. Foreign Workers Utilization Plan (*Rencana Penggunaan Tenaga Kerja Asing*), hereinafter referred to as RPTKA means a plan for the use of foreign workers in certain positions for a certain period.
5. Legalization of the Foreign Workers Utilization Plan, hereinafter referred to as Legalization of the RPTKA, means the approval for TKA Utilization which is legalized by the minister administering government affairs in the field of manpower or appointed official.
6. Special Economic Zones, hereinafter referred to as SEZ, means area with certain boundaries within the jurisdiction of the Unitary State of the Republic of Indonesia which are designated to implement economic functions and obtain certain facilities.
7. Compensation Fund for the TKA Utilization, hereinafter abbreviated as DKPTKA, means compensation that must be paid by the Employer of TKA for each TKA employed as non-tax state revenue or local revenue.
8. Labour Inspector means a civil servant who is given the full duties, responsibilities, authorization and rights by the authorized official to perform the activities of

guidance, examining, assessing, investigating, and developing the labour inspection system in accordance with the provisions of legislation.

9. Minister means the minister administering the government affairs in the field of manpower.

CHAPTER II
OBLIGATIONS AND PROHIBITIONS FOR EMPLOYERS OF FOREIGN WORKERS

Part One
General

Article 2

(1) Every Employer of TKA is obligated to prioritize the Indonesian worker utilization in all types of available positions.

(2) In the event that the position as referred to in section (1) has not been able to be occupied by Indonesian workers, the position may be occupied by TKA.

(3) The TKA Utilization as referred to in section (2) considers the conditions of the domestic labour market.

Article 3

(1) Employers of TKA include:

a. Government institutions, representatives for foreign countries, and international agencies;

b. representative offices of foreign trade, representative offices of foreign companies, and foreign news offices conducting activities in Indonesia;

c. foreign private companies conducting business in Indonesia;

d. legal entities in the form of limited liability companies or foundations which established under Indonesian law or foreign business entities registered in the authorized institution;

e. social, religious, educational and cultural institutions;

f. impresario service business; and

g. business entities as long as not prohibited by the Law to utilize TKA.

(2) The limited liability company as referred to in section (1) point d is exempted from a limited liability company in the form of an individual legal entity.

Article 4

(1) TKA can only be employed by Employer of TKA in an employment relation for certain positions and at certain time, who has competencies according to the position that will be occupied.

(2) Certain positions that can be occupied by TKA as referred to in section (1) are determined by the Minister after receiving input from the relevant ministries/institutions.

Article 5

(1) Employers of TKA can only employ TKA who is currently being employed by other Employers of TKA in the same position as:

a. board of directors or commissioners; or

b. TKA in the vocational education and vocational training sector, the digital economy sector, and the oil and gas sector for contractor of a partnership contract.

(2) In the event that Employers of TKA will employ a TKA as referred to in section (1), the TKA must obtain approval from the first Employer of TKA.

(3) TKA as referred to in section (1) is employed not later than the end of the period as stated in the Legalization of the RPTKA from the first Employer of TKA.

(4) Certain positions of the vocational education and vocational training sector, the digital economy sector, and the oil and gas sector for contractor of a partnership contract that may be concurrently occupied as referred to in section (1) point b are determined by the Minister after receiving input from the relevant ministries/institutions.

Part Two

Obligations

Article 6

(1) Every Employer of TKA who employs TKA is obligated to have RPTKA which is legalized by the Minister or appointed official.

(2) In the event that Employer of TKA will employ TKA who is currently being employed by other Employer of TKA, each Employer of TKA is obligated to have Legalization of the RPTKA.

(3) The Employer of TKA as referred to in section (1) and section (2) are obligated to employ TKA in accordance with the Legalization of the RPTKA.

Article 7

(1) Employer of TKA is obligated to:
   a. appoint Indonesian citizen workers as associate for TKA who are employed to transfer technology and expertise from the TKA;
   b. implement education and training for the Associate for TKA as referred to in point a in accordance with job qualifications occupied by TKA; and
   c. repatriate the TKA to their own countries after the employment contract ends.

(2) In addition to the obligations of Employer of TKA as referred to in section (1), Employer of TKA is obligated to facilitate Indonesian language education and training for TKA.

(3) The provisions as referred to in section (1) point a, point b, and section (2) are exempted for:
   a. board of directors and commissioners;
   b. head of representative office;
   c. governing, executive and supervisory boards of the foundation; and
   d. TKA who are employed for temporary work.

Article 8

(1) Employer of TKA is obligated to register their TKA in the national social security program for TKA who works more than 6 (six) months or insurance programs with insurance companies for TKA who works less than 6 (six) months.

(2) The insurance program for TKA who work less than 6 (six) months as referred to in section (1) should at least guarantee protection for the types of employment injury risk.

Part Three

Prohibition

Article 9

Individual employers are prohibited from employing TKA.

Article 10

Employer of TKA is prohibited from employing TKA with multiple positions in the same company.

Article 11

(1) Employer of TKA is prohibited from employing TKA in positions in charge of personnel affairs.

(2) The position which is in charge of personnel affairs as referred to in section (1) is determined by the Minister after receiving input from the relevant ministries/institutions.

CHAPTER III

LEGALIZATION OF THE RPTKA OF THE FOREIGN WORKER UTILIZATION PLAN

Part One

Procedures in the Application for Legalization of the Foreign Workers Utilization Plan

Article 12

(1) In order to obtain Legalization of the RPTKA, the Employer of TKA must submit the application online to the Minister or appointed official.

(2) Application for Legalization of the RPTKA as referred to in section (1) is submitted by the Employer of TKA which at least requires:
   a. the identity of the Employer of TKA;
   b. the reasons for TKA Utilization;
   c. the position or level of TKA in the company's organizational structure;
   d. numbers of TKA;
   e. the period of TKA Utilization;
   f. TKA work location;
   g. the identity for the Associate for TKA; and
   h. the plan to employ Indonesian workers in every year.

(3) Application for Legalization of the RPTKA as referred to in section (2) is submitted by the Employer of TKA by attaching the following required documents:
   a. application letter;
   b. business registration number and/or business license of the Employer of TKA;
   c. legalization deeds and decisions of establishment and/or amendments from the competent authorities;
   d. proof of mandatory manpower report in company;
   e. draft employment contract or other agreement;
   f. company organizational structure chart;
   g. statement letter for the appointment of Associates for TKA;
   h. statement letter to implement education and training

for Indonesian workers in accordance with the qualifications of the position which is occupied by TKA; and

i. statement letter to facilitate Indonesian language education and training for TKA.

(4) In the event that Employer of TKA is ready to submit data of the TKA candidates, the submission of the data of the TKA may be done at the same time as the application for Legalization of the RPTKA.

Article 13

(1) The Minister or appointed official conducts an assessment of the feasibility of the application for Legalization of the RPTKA submitted by the Employer of TKA since it is declared complete and correct.

(2) The Minister or appointed official as referred to in section (1) issues the results of the feasibility assessment for Legalization of the RPTKA not later than 2 (two) work days after the Employer of TKA is deemed feasible based on the feasibility assessment.

Article 14

(1) Based on the results of the feasibility assessment for Legalization of the RPTKA as referred to in Article 13 section (2), Employer of TKA submits the data of the TKA online to the Minister or appointed official.

(2) The data of TKA as referred to in section (1) at least requires:

a. TKA identity;
b. TKA position and work period;
c. TKA work location; and
d. designated TKA code and domicile location.

(3) Employer of TKA while submitting data of TKA candidates as referred to in section (2) attach the following required document:

a. education certificate;

b. competency or work experience certificate;
c. employment contract or other agreement;
d. statement letter for the appointment of Associates for TKA;
e. statement letter as guarantor for TKA; and
f. current/savings account of TKA or Employer of TKA.

(4) Data of TKA candidates and documents are verified by the Minister or appointed official within 2 (two) work days.

(5) In the event that the data of TKA candidates and documents as referred to in section (4) are declared complete and correct and Employer of TKA has also made DKPTKA payments, the Minister or appointed official issues Legalization of the RPTKA.

(6) Legalization of the RPTKA is used as a recommendation to obtain a visa and stay permit to be able to work as TKA.

(7) The Minister or appointed official as referred to in section (5) transmits data of TKA candidates online to the minister administering government affairs in the field of law and human rights or the recommended appointed official to obtain a visa and a stay permit to work.

Article 15

(1) Applications for Legalization of the RPTKA submitted by Government institutions, representatives of foreign countries, and international agencies are exempted from the feasibility assessment for Legalization of the RPTKA as referred to in Article 13.

(2) The application for Legalization of the RPTKA as referred to in section (1) is submitted to the Minister or appointed official with at least requiring data of the TKA candidates:
a. TKA identity;
b. TKA position and work period;
c. TKA work location; and
d. designated TKA of code and location of domicile.

(3) Application for Legalization of the RPTKA as referred to in section (2) is submitted by the Employer of TKA by attaching the following required documents:
a. application letter and reasons for TKA Utilization;

b. draft employment contract or other agreement; and/or

c. letter of approval from the authorized institutions.

(4) Data and documents of TKA candidates are verified by the Minister or appointed official within 2 (two) work days.

(5) In the event that the data and documents of TKA candidates as referred to in section (4) are declared complete and correct, the Minister or appointed official issues Legalization of the RPTKA.

(6) Legalization of the RPTKA is used as a recommendation to obtain a visa and stay permit to work as TKA.

(7) The minister or appointed official as referred to in section (5) submits the data online regarding the TKA candidates to the minister administering government affairs in the field of law and human rights or the recommended appointed official to obtain a visa and a stay permit to work.

Article 16

Legalization of the RPTKA consists of:

a. RPTKA for temporary work;

b. RPTKA for work more than 6 (six) months;

c. RPTKA non-DKPTKA; and

d. RPTKA for SEZ.

Article 17

(1) Legalization of the RPTKA for temporary work is granted for a maximum period of 6 (six) months and cannot be extended.

(2) Legalization of the RPTKA for work more than 6 (six) months and Legalization of RPTKA non-DKPTKA is granted for a maximum period of 2 (two) years and can be extended.

(3) Legalization of the RPTKA for SEZ is granted for a maximum period of 5 (five) years and can be extended.

(4) Legalization of the RPTKA for SEZ for board of directors or

commissioners' positions is given once and is valid as long as the TKA still working as board of directors or commissioners.

Article 18

Legalization of the RPTKA non-DKPTKA is given to Employer of TKA for Government institutions, representatives of foreign countries, international agencies, social institutions, religious institutions, and certain positions in educational institutions.

Article 19

(1) Legalization of the RPTKA as referred to in Article 16 is exempted for:
   a. board of directors or commissioners with certain share of stock ownership, or shareholders in accordance with the provisions of legislation;
   b. diplomatic and consular staff at representative offices of foreign countries; or
   c. TKA who is needed by Employer of TKA in the types of production activities that have stopped due to emergencies, vocational, technology-based start-ups, business visits, and research for a certain period of time.

(2) In order to employ TKA in and technology-based start-up and vocational activities for a certain period as referred to in section (1) point c, the Employer of TKA must submit the data of the TKA candidates online to the Minister or appointed official.

(3) Position in technology-based start-up and vocational activities as referred to in section (2) are determined by the Minister after obtaining input from the relevant ministries/institutions.

(4) The Minister or appointed official as referred to in section (2) submits the data of TKA candidates online to the minister administering government affairs in the field of law and human rights or the recommended appointed official to obtain a visa and stay permit to work.

(5) The period of time for TKA working in technology-based

start-up and vocational activities as referred to in section (3) is given for a maximum of 3 (three) months.

(6) Employer of TKA that will employ TKA in technology-based start-up and vocational activities more than the period as referred to in section (5) are required to have Legalization of the RPTKA.

(7) In the event that the period as referred to in section (5) has ended and the Employer of TKA will continue to employ the TKA, then the Employer of TKA must submit an application for Legalization of the RPTKA.

(8) Application for Legalization of the RPTKA as referred to in section (7) is submitted 2 (two) weeks before the expiration of TKA position as referred to in section (5).

Article 20

TKA who is needed by the Employer of TKA in the types of production activities that have stopped due to emergencies, business visits, and research as referred to in Article 19 section (1) point c can enter and stay in Indonesian territory using a visa and stay permit in accordance with the provisions of the legislation in the field of immigration.

Part Two

Extension of and Amendment to Legalization of the Foreign Workers Utilization Plan

Article 21

(1) Application for extension of Legalization of the RPTKA is submitted online by the Employer of TKA to the Minister or appointed official.

(2) Application for extension of Legalization of the RPTKA as referred to in section (1) is submitted not later than 30 (thirty) work days before the expiration date.

(3) Application for the extension of Legalization of the RPTKA as referred to in section (1) is submitted by Employer of TKA which at least requires:

a. the identity of the Employer of TKA;

b. reasons for the extension of the Legalization of the RPTKA;
c. position or level of TKA in the company's organizational structure;
d. numbers of TKA;
e. period of TKA Utilization;
f. TKA work location;
g. the identity of Associate for TKA; and
h. the realization of the Indonesian workers employment.

(4) Application for the extension of Legalization of the RPTKA as referred to in section (3) is submitted by the Employer of TKA by attaching of the following required documents:
a. application letter for RPTKA extension;
b. valid Legalization of the RPTKA;
c. draft employment contract or other agreement;
d. valid TKA passport;
e. social security program membership;
f. the tax identification number of the TKA and the Employer of TKA; and
g. reports on the realization of the implementation in work education and training for Indonesian workers in accordance with the job qualifications occupied by TKA.

(5) In the event that the application for Legalization of the RPTKA extension is declared complete and correct, the Minister or appointed official issues Legalization of the RPTKA extension in 2 (two) work days.

(6) The period of each extension for Legalization of the RPTKA as referred to in section (5) is given a maximum of 2 (two) years and Legalization of the RPTKA extension in SEZ is for a maximum of 5 (five) years.

(7) Legalization of the RPTKA extension is used as a recommendation to obtain a stay permit to work as TKA.

(8) The Minister or appointed official as referred to in section (5) transmits data of TKA to be employed online to the minister administering government affairs in the field of

law and human rights or the recommended appointed official to obtain a stay permit to work.

Article 22

(1) Employer of TKA can apply for amendment to Legalization of the RPTKA online to the Minister or appointed official regarding:
   a. address of the Employer of TKA;
   b. TKA identity;
   c. TKA work location; and/or
   d. name of the employed Associate for TKA.

(2) Amendment to Legalization of the RPTKA as referred to in section (1) is issued by the Minister or appointed official within 2 (two) work days after the application is declared complete and correct.

Part Three

Compensation Fund for Foreign Worker Utilization

Article 23

(1) Employer of TKA is obligated to pay DKPTKA for each TKA employed.

(2) DKPTKA payments are made according to the time period TKA works in the territory of Indonesia.

(3) The DKPTKA payment as referred to in section (1) is paid by the Employer of TKA after receiving the DKPTKA payment billing code from the Minister or appointed official.

(4) The billing code for DKPTKA payment as referred to in section (3) is submitted to the Employer of TKA after the data and documents of the TKA candidates are declared complete by the Minister or appointed official.

(5) Payment of DKPTKA is a requirement for Legalization of the RPTKA.

(6) Provisions regarding the amount and use of DKPTKA as referred to in section (1) is implemented in accordance with the provisions of legislation.

Article 24

(1) Payment of DKPTKA by the Employer of TKA is non-tax state revenue or local revenue in the form of local levy.

(2) DKPTKA as referred to in section (1) becomes:
   a. non-tax state revenue for Legalization of new RPTKA, Legalization of the RPTKA extension for TKA who is working in locations more than 1 (one) province, and Legalization of RPTKA for SEZ;
   b. provincial revenue for Legalization of RPTKA extension for TKA who is working in locations more than 1 (one) regency/city in 1 (one) province; and
   c. regency/municipal revenue for Legalization of the RPTKA extension for TKA who is working in location within 1 (one) regency/city.

(3) Payment of DKPTKA as referred to in section (1) for non-tax state revenue is paid through a perception bank appointed by the Minister and for local revenue it is paid through a bank appointed by the Local Government.

Article 25

(1) The obligation to pay DKPTKA is exempted for:
   a. Government institutions;
   b. representatives of foreign countries;
   c. international agencies;
   d. social institutions;
   e. religious institutions; and
   f. certain positions in educational institutions.

(2) Certain positions in educational institutions that are exempted from DKPTKA payments as referred to in section (1) point f are determined by the Minister after receiving input from the ministry administering government affairs in the field of education.

Article 26

Further provisions regarding the procedure for application of, extension of, amendment to Legalization of the RPTKA, and DKPTKA payments as referred to in Article 12 to Article 25 are regulated by a Ministerial Regulation.

CHAPTER IV

STAY PERMIT FOR FOREIGN WORKERS

Article 27

(1) Every TKA employed by an Employer of TKA in Indonesia must have a stay permit.

(2) Types of and procedures for granting a stay permit as referred to in section (1) are in accordance with the provisions of legislation in the field of immigration.

CHAPTER V

EDUCATION AND TRAINING FOR FOREIGN WORKERS AND ASSOCIATES FOR FOREIGN WORKERS

Article 28

(1) The appointment of Indonesian workers as Associate for TKA is conducted for transfer of technology and expertise.

(2) Transfer of technology and expertise as referred to in section (1) is conducted through education and/or training for Associate for TKA so that they have the ability to implement the technology used by TKA while performing their work.

Article 29

(1) Education and training for Associate for TKA can be conducted at home and/or abroad.

(2) Associates for TKA who participate in education and training as referred to in section (1) receive a certificate of education and training and/or a certificate of competence in accordance with the provisions of legislation.

(3) The education and training for domestic Associate for TKA as referred to in section (1) is conducted in accordance with the provisions of legislation.

Article 30

Indonesian language education and training for TKA can be implemented by the Employer of TKA or in collaboration with Indonesian language education or training institutions.

Article 31

Further provisions regarding the implementation of work education and training for Associate for TKA and TKA as referred to in Article 28 to Article 30 are regulated in a Ministerial Regulation.

CHAPTER VI
REPORTING, GUIDANCE AND SUPERVISION

Part One
Reporting

Article 32

(1) Employer of TKA is obligated to report every 1 (one) year to the Minister or appointed official for the implementation of:
   a. TKA Utilization;
   b. education and training for Associates for TKA; and
   c. transfer of technology and expertise from TKA to Associates for TKA.

(2) Employer of TKA for temporary work is obligated to report the implementation for TKA Utilization as referred to in section (1) point a after the end of the employment contract to the Minister or appointed official.

(3) Employer of TKA is obligated to report to the Minister or appointed official for the employment contract of TKA that has ended or ended earlier before the term of the employment contract ends.

Article 33

The Minister or appointed official provides data on TKA employed by Employer of TKA online and can be accessed by the government office administering provincial and regency/municipal affairs in the field of manpower in accordance with the work location of TKA through the employment information system.

Part Two

Guidance

Article 34

Guidance on TKA Utilization is implemented by the ministry administering government affairs in the field of manpower and by the government office administering government affairs in the field of provincial and regency/municipal manpower in accordance with their respective authorities.

Part Three

Supervision

Article 35

(1) Supervision on TKA Utilization is implemented by:
   a. Labour Inspectors at the ministry administering government affairs in the field of manpower and/or the government office administering government affairs in the field of provincial manpower; and/or
   b. Immigration officers in charge of immigration oversight and sanctions, while in coordinated according with the scope of each duty and authority.

(2) The Labour Inspector as referred to in section (1) point a supervises the norms for TKA Utilization in accordance with the provisions of legislation in the field of manpower.

CHAPTER VII

ADMINISTRATIVE SANCTIONS

Article 36

(1) Employer of TKA who violates the provisions of Article 6 section (1), Article 6 section (2), Article 6 section (3), Article 7 section (2), Article 8 section (1), Article 10, Article 11 section (1), Article 19 section (6), Article 23 section (1), Article 32 section (1), Article 32 section (2), and/or Article 32 section (3), are subject to administrative sanctions in the forms of:
   a. fine;

b. temporary suspension of the application process for the Legalization of the RPTKA; and/or

c. revocation of Legalization of the RPTKA.

(2) The administrative sanctions as referred to in section (1) are imposed by the Minister or appointed official.

(3) The Minister or appointed official as referred to into in section (2) while imposing administrative sanctions is based on the notification letter regarding the imposition of administrative sanctions from the Labour Inspector.

Article 37

(1) The fine as referred to in Article 36 section (1) point a is imposed on Employer of TKA who violates the provisions for not having Legalization of the RPTKA as referred to in Article 6 section (1), Article 6 section (2), and Article 19 section (6).

(2) The amount of the fine as referred to in section (1) is imposed per position per person per month with the following conditions:

a. 1 (one) month is subject to a fine of Rp6,000,000.00 (six million rupiah);

b. 2 (two) months are subject to a fine of Rp12,000,000.00 (twelve million rupiah);

c. 3 (three) months are subject to a fine of Rp18,000,000.00 (eighteen million rupiah);

d. 4 (four) months are subject to a fine of Rp24,000,000.00 (twenty-four million rupiah);

e. 5 (five) months are subject to a fine of Rp30,000,000.00 (thirty million rupiah); or

f. 6 (six) months are subject to a fine of Rp36,000,000.00 (thirty-six million rupiah).

(3) The calculation of the amount of the fine as referred to in section (2) is imposed on the Employer of TKA starting from the time when TKA enters Indonesian territory for up to 6 (six) months.

(4) The fine as referred to in section (2) is paid to the state

treasury.

(5) The payment of the fine as referred to in section (2) is made by the Employer of TKA not later than 2 (two) weeks from the receipt or announcement of the imposition of the fine.

Article 38

(1) Employer of TKA who fails to pay fine sanctions within a maximum period of 2 (two) weeks as referred to in Article 37 section (5) is subject to sanctions for temporary suspension of the application process for the Legalization of the RPTKA.

(2) Employer of TKA as referred to in section (1) is still obligated to pay fines and late penalty fees of 2% (two percent) per month from the amount of fine that must be paid.

(3) The late penalty as referred to in section (2) is imposed for a maximum of 6 (six) months.

(4) If within 6 (six) months from the deadline for payment, the Employer of TKA fails to pay the fine and late penalty, which means the Minister or appointed official submits the collection to the authorized agency to take care of state receivables for further processing.

Article 39

(1) The sanction for temporary suspension of the application process for the Legalization of the RPTKA as referred to in Article 36 section (1) point b is imposed on Employer of TKA who violates the following provisions:

a. does not facilitate Indonesian education and training for TKA as referred to in Article 7 section (2);

b. does not register TKA in the national social security program for TKA who works more than 6 (six) months or insurance programs in insurance companies for TKA who has worked less than 6 (six) months as referred to in Article 8 section (1);

c. does not report every 1 (one) year to the Minister or

appointed official for the implementation of TKA Utilization, the implementation of education and training for Associate for TKA, and the implementation of transfer of technology and expertise from TKA to Associate for TKA as referred to in Article 32 section (1);

d. does not report the implementation of TKA Utilization for temporary work after the end of the employment contract to the Minister or appointed official as referred to in Article 32 section (2); and/or

e. does not report to the Minister or appointed official regarding employment contract for TKA that has ended or ended earlier before the term of the employment contract ends as referred to in Article 32 section (3).

(2) The sanction for temporary suspension of the application process for Legalization of the RPTKA as referred to in section (1) is given for a maximum period of 3 (three) months.

(3) The temporary suspension of the application process for Legalization of the RPTKA as referred to in section (2) contains the obligations for the Employer of TKA must implement due to the violations that have been committed.

(4) In the event that the Employer of TKA does not accomplish the obligations as referred to in section (3) will be subject to sanctions for revocation of the Legalization of the RPTKA.

Article 40

(1) Sanctions for revocation of Legalization of the RPTKA as referred to in Article 36 section (1) point c are imposed on Employer of TKA who violates the following provisions:

a. employing TKA which is not in accordance with the Legalization of the RPTKA as referred to in Article 6 section (3);

b. employing TKA with multiple positions in the same

company as referred to in Article 10;

c. employing TKA in positions that handling personnel affairs as referred to in Article 11 section (1); and/or

d. not paying DKPTKA for every TKA employed as referred to in Article 23 section (1).

Article 41

The Minister or appointed official submits the revocation of Legalization of the RPTKA to the minister administering government affairs in the field of law and human rights or official appointed to implement immigration actions in accordance with the provisions of legislation in the field of immigration.

Article 42

Further provisions regarding the procedures for the imposition of administrative sanctions as referred to in Article 36 to Article 41 are regulated in a Ministerial Regulation.

CHAPTER VIII

FUNDING

Article 43

All required funding for the implementation of this Government Regulation is borne by the State Budget, also the Provincial Budget, along with other legal sources of funding in accordance with the provisions of legislation.

CHAPTER IX

MISCELLANEOUS PROVISION

Article 44

The process of TKA Utilization as regulated in this Government Regulation is implemented through the usage of data together and integrated via online.

CHAPTER X

TRANSITIONAL PROVISION

Article 45

At the time this Government Regulation comes into force:

a. the permit for TKA Utilization that has been issued is still valid until the expiration of its validity period; and
b. the permit for the TKA Utilization who are in the application process is adjusted to the provisions in this Government Regulation.

CHAPTER XI

CLOSING PROVISIONS

Article 46

At the time this Government Regulation comes into force, Presidential Regulation Number 20of 2018 on Foreign Workers Utilization (State Gazette of the Republic of Indonesia of 2018 Number 39) is repealed and declared ineffective.

Article 47

At the time this Government Regulation comes into force, Regional Regulations and Regional Head Regulations regulating levy derived from the extension of permits for employing TKA are required to comply with provisions in this Government Regulation within 3 (three) months from the time Government Regulation comes into force.

Article 48

This Government Regulation comes into force on 1 April 2021.

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

Issued in Jakarta
on 2 February 2021

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed

JOKO WIDODO

Promulgated in Jakarta
on 2 February 2021

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

signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2021 NUMBER 44

Jakarta, 14 June 2021
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

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

Issued in Jakarta
on 2 February 2021

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed

JOKO WIDODO

Promulgated in Jakarta
on 2 February 2021

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

signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2021 NUMBER 44

Jakarta, 14 June 2021
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
GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER 34 OF 2021
ON
FOREIGN WORKERS UTILIZATION

I. GENERAL

Along with efforts to increase national development, investment is one of the main strategies in order to encourage national economic growth to be able to create an expansion of employment opportunities for Indonesian workers. Labour has a very important role and position as actors and as a goal for development. Every development activity should be implemented by Indonesian workers with filling the positions required in the implementation of development. Although as a development goal, the government's role is needed to improve the quality and participation of the workforce in national development in accordance with human dignity. Therefore, if the investment requires the employment of foreign workers, well this employment of foreign workers is directed by accelerating the national development process through technology and expertise transfer from foreign workers to Associate for TKA.

This government regulation is needed to encourage the acceleration of national development through selective recruitment of foreign workers with requirements and prohibited on foreign workers who will be employed through the determination of certain positions and certain times which foreign workers could hold.

The employment of foreign workers is accomplished through the mandatory Legalization of the RPTKA. This obligations for Employers of TKA if want to employing foreign workers, such as, appoint Indonesian citizen as Associate for Foreign Worker who are employed to technology and skills transfer from TKA, implement education and job training for the

Associate for Foreign Worker in accordance with the qualifications of the positions occupied by foreign workers, facilitate Indonesian education and training for foreign workers, and return the foreign workers to their home countries back after their work agreement ends.

Guidance and supervision of the employment of foreign workers are implemented by the central government and Local governments in order to create an investment climate that is conducive for creating the widest possible job opportunities for Indonesian workers and law enforcement also administrative sanctions for Employers of TKA who violating the norms of TKA Utilization.

This Government Regulation regulates the obligations and prohibitions of Employers of TKA, applications, extensions and changes in Legalization of the RPTKA, DKPTKA regulations, issuance of residence permits for TKA, implementation of education and job training for Associate for Foreign Worker, Indonesian language education and training for TKA, reporting, guidance and supervision also administrative sanctions by violations the norms of employment foreign workers.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Sufficiently clear.

Article 3

Section (1)

Point a

The term "international agencies" includes international organizations.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

The term " business entities as long as not prohibited by the Law to utilize TKA " includes advocate offices and public accounting firms which are regulated in accordance with the law.

Section (2)

Sufficiently clear.

Article 4

Section (1)

The term "certain positions" includes positions at the level of commissioners, board of directors, managerial and professional.

Section (2)

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Sufficiently clear.

Article 7

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Section (1)

Sufficiently clear.

Section (2)

Point a

The term "identity of the Employer of TKA " includes name, address, telephone number, sector/line of business of the Employer of TKA.

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.

Section (3)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

The term "other agreement" includes a contractors contract, a letter of appointment for assignment from the head office, and a memorandum of understanding.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 13

Section (1)

The term "assessment of the feasibility of the application for Legalization of the RPTKA" means the right to examine the application for Legalization of the RPTKA based on selective national economic labour market conditions with conditions and prohibited on foreign workers who will be employed through the determination of certain positions and period time which would be occupied by foreign workers and potential labour absorption.

Section (2)

Sufficiently clear.

Article 14

Section (1)

Sufficiently clear.

Section (2)

Point a

The term "TKA identity" includes name, place and date of birth, sex, education, marital status, nationality, passport number, and date and place passports issuance.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Article 15

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The term "letter of approval from the authorized institutions" includes assignment approval letters from the ministry administering government affairs in the field of foreign affairs and the ministry administering government affairs in the field of the state secretariat.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Article 16

Sufficiently clear.

Article 17

Section (1)

The term "temporary work" includes:

a. making films of a commercial nature and having obtained a permit from the authorized institution;
b. conducting audits, quality control of production, or inspections at company branches in Indonesia for a period more than 1 (one) month;
c. work related to the installation of machines, electrical, after sales service, or products during the business exploration period;
d. impresario service business; or
e. one-time job or work period less than 6 (six) months.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Section (1)

Point a

The term "legislation" means regulations that govern capital investment facilities.

Point b

Sufficiently clear.

Point c

The term "production that has stopped due to emergencies" means an unplanned condition that requires immediate response due to, things like, natural disasters, main engine failure, riots/demonstrations/rampage that need to be handled immediately in order to avoid fatal losses to the company and/or general public.

The term "vocational" means vocational education and vocational training.

The term “technology-based start-up” means a company that is technology-based and has certain capital, including digital fintech and tech start-up.

The term "business visits" includes holding business talks, giving lectures or attending seminars, participating in international exhibitions, attending meetings held with the head office or representatives in Indonesia.

The term "research" means an activity accomplished in purposes with scientific research.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Section (8)

Sufficiently clear.

Article 20

The term "production that has stopped due to emergencies" means an unplanned condition that requires immediate response due to, things like, natural disasters, main engine failure, riots/demonstrations/rampage that need to be handled immediately in order to avoid fatal losses to the company and/or public.

The term "business visits" includes holding business talks, giving lectures or attending seminars, participating in international exhibitions, attending meetings held with the head office or representatives in Indonesia.

The term "research" means an activity implemented in the purposes with scientific research.

Article 21

Sufficiently clear.

Article 22

Sufficiently clear.

Article 23

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

The term "legislation" means legislation that govern the types and rates of non-tax state revenue that apply in the ministry administering government affairs in the field of manpower.

Article 24

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)

The term" legislation" means legislation that govern the national job training system and the national education system.

Article 30

Sufficiently clear.

Article 31

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

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Sufficiently clear.

Article 41

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

Sufficiently clear

Article 44

The term "integrated via online" includes integration with the immigration system, the ministerial system which administers government affairs in the financial sector, the social security agency, and the online single submission.

Article 45

Sufficiently clear.

Article 46

Sufficiently clear.

Article 47

Sufficiently clear.

Article 48

Sufficiently clear.