

Indonesia's Omnibus Bill and Labor

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On October 5, 2020, the DPR passed the Bill on Job Creation and since then there have been various versions of the “latest” Bill circulating online. The amendment to the Indonesian Manpower Law starts at Chapter 4 Article 80 of the Bill and continues to Article 84, divided into five sections.

SECTION ONE

Article 80 of the Job Creation Law amends, removes and adds new provisions in the following laws:

1. Law No.13 Year 2003 regarding Manpower;
2. Law No. 40 Year 2004 regarding National Social Security System;
3. Law No. 24 Year 2011 regarding Social Security Organizing Body (BPJS);
4. Law No. 18 Year 2017 regarding Protection of Indonesian Migrant Workers.

SECTION TWO

Issue	Articles in the Manpower Law	New rules under the Job Creation Bill
• Job training	<ul style="list-style-type: none"> • Article 13 • Article 14 	<ul style="list-style-type: none"> • Governmental and corporate training institutions must register its activities at the MOM office in the Regency/Municipality. • A private training institution with foreign ownership must obtain its license from the Central Government.
• Manpower Placement	<ul style="list-style-type: none"> • Article 37 	<ul style="list-style-type: none"> • A private manpower placement institution must obtain its license from the Central Government.
• Expatriate employees	<ul style="list-style-type: none"> • Article 42 • Article 43 (revoked) • Article 44 (revoked) • Article 45 • Article 46 (revoked) • Article 47 • Article 48 (revoked) • Article 49 	<ul style="list-style-type: none"> • Foreign Manpower Utilization Plan (<i>Rencana Penggunaan Tenaga Kerja Asing</i> or "RPTKA") must be issued by the Central Government. • A RPTKA is not required for Directors or Commissioners with a certain share ownership; shareholders; diplomatic and consular staff at representative offices of foreign countries; foreign workers required by the employer for production activities that have stopped due to an emergency; foreign workers in Indonesia for vocational training, a business visit or to work at a technological start-up; or foreign workers who will perform research for a certain period of time. • A new Government Regulation will be issued to regulate specific positions and terms for expatriate employees.
• Employment relationship	<ul style="list-style-type: none"> • Article 56 • Article 57 • Article 58 • Article 59 • Article 61 • Article 61 A (new) 	<ul style="list-style-type: none"> • The period of a fixed-term employment agreement and/or the completion of work should be regulated in said employment agreement. • The words "no more than three years" are removed from Article 59 of the Manpower Law on work that is expected to be completed in a relatively short period of time. • A new Government Regulation will be issued to regulate fixed-term employment agreements and/or completion of work. • Completion of work is added as a reason to terminate an employment relationship. • Compensation must now be paid to certain fixed-term employees when their employment is ended, which will be regulated in a new Government Regulation.

Issue	Articles in the Manpower Law	New rules under the Job Creation Bill
<ul style="list-style-type: none"> • Outsourcing 	<ul style="list-style-type: none"> • Article 64 (revoked) • Article 65 (revoked) • Article 66 	<ul style="list-style-type: none"> • Outsourcing of service (business to business) provision under the Manpower Law is revoked. • Labor suppliers will be responsible to handle all terms and conditions of employment including any dispute involving their employees. • The wording on the prohibition of using labor suppliers to carry out core activities or activities directly related to the production process, except for supporting services or activities not directly related to the production process, is eliminated from Article 66 of the Manpower Law. • Labor supplier companies must obtain a license from the Central Government. • A new Government Regulation will be issued to regulate protection of employees of labor suppliers as well as its licensing.
<ul style="list-style-type: none"> • Working hours 	<ul style="list-style-type: none"> • Article 77 • Article 78 • Article 79 	<ul style="list-style-type: none"> • Flexible working hours can be regulated in an employment agreement, company regulation or collective labor agreement. • The mandatory 2 months (minimum) leave after an employee works more than 6 years is eliminated from Article 79 of the Manpower Law. • A new Government Regulation will be issued to regulate working hours and overtime. • A new Government Regulation will be issued to regulate the types of companies that can grant long leaves.
<ul style="list-style-type: none"> • Remuneration 	<ul style="list-style-type: none"> • Article 88 • Article 88 A (new) • Article 88 B (new) • Article 88 C (new) • Article 88 D (new) • Article 88 E (new) • Article 89 (revoked) • Article 90 (revoked) 	<ul style="list-style-type: none"> • Central Government stipulates policy on remuneration. • A new Government Regulation will be issued to regulate remuneration policies. • Micro and small businesses are exempted from minimum wage requirements. • Employees' wages are considered a preferred debt (didahulukan) that is paid in advance when a company goes bankrupt or is liquidated. • A New Government Regulation will be issued to regulate minimum wage calculation.

Issue	Articles in the Manpower Law	New rules under the Job Creation Bill
	<ul style="list-style-type: none"> • Article 90 A (new) • Article 90 B (new) • Article 91 (revoked) • Article 92 • Article 92 A (new) • Article 94, • Article 95 • Article 96 (revoked) • Article 97 (revoked) • Article 98 	
<ul style="list-style-type: none"> • Termination 	<ul style="list-style-type: none"> • Article 151 • Article 151 A (new) • Article 152 (revoked) • Article 153 • Article 154 (revoked) • Article 154 A (new) • Article 155 (revoked) • Article 156 • Article 157 • Article 157 A (new) • Article 158 (revoked) • Article 159 (revoked) 	<ul style="list-style-type: none"> • Article 154 (a) of the Manpower Law now only provides the reasons for termination without the calculation of benefits. • A new Government Regulation to be issued on the calculation of severance pay and service pay entitlements according to the reason for termination. • The housing and medical allowance equal to 15% of the compensation pay (uang penggantian hak) is revoked.

Issue	Articles in the Manpower Law	New rules under the Job Creation Bill
	<ul style="list-style-type: none">• Article 160• Article 161 – 172 (revoked)	
<ul style="list-style-type: none">• Criminal Provisions and Administrative Sanctions	<ul style="list-style-type: none">• Article 184 (revoked)• Article 185• Article 186• Article 187• Article 190• Article 191 A	<ul style="list-style-type: none">• Violation of Article 42 (1) of the Manpower Law (the use of a foreign worker without a proper license) is no longer a felony. Under Article 190, this violation is now subject only to administrative sanction.• Violation of Article 37 (2) of the Manpower Law (a private manpower placement institution must obtain a license) is no longer considered as a misdemeanor.

SECTION THREE

Issue	Articles in the National Social Security Law	New rules under the Job Creation Bill
<ul style="list-style-type: none"> • Social security 	<ul style="list-style-type: none"> • Law No. 40 of 2004 on National Social Security System • Article 18 • Article 46 A • Article 46 B • Article 46 C • Article 46 D • Article 46 E 	<ul style="list-style-type: none"> • New mandatory social security on termination of employment is introduced. • A new Government Regulation will be issued to regulate mandatory social security on termination.

SECTION FOUR

Issue	Articles in the BPJS Law	New rules under the Job Creation Bill
<ul style="list-style-type: none"> • BPJS 	<ul style="list-style-type: none"> • Law No. 24 of 2011 on BPJS • Article 6 • Article 9 • Article 42 	<ul style="list-style-type: none"> • New mandatory social security on termination of employment is introduced under BPJS of Employment.

SECTION FIVE

Issue	Articles in the Protection of Indonesian Migrant Workers Law	New rules under the Job Creation Law
• Protection of Indonesian Migrant Workers.	• Law No. 18 of 2017 on Protection of Indonesian Migrant Workers • Article 1 (9) and (16) • Article 51 • Article 53 • Article 57 • Article 89 A	• The license for migrant worker placement companies is issued by the Central Government. • All branches of migrant worker placement companies must obtain license from provincial government.

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