

· 中英文对照 ·

印度尼西亚 涉商法律文件汇编

李 杰 姜一飞 ◎ 编译

A Collection of Indonesian Laws
concerning Business



暨南大学出版社
JINAN UNIVERSITY PRESS

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中国·广州

图书在版编目 (CIP) 数据

印度尼西亚涉商法律文件汇编 = A Collection of Indonesian Laws concerning Business/李杰, 姜一飞编译. —广州: 暨南大学出版社, 2015. 11

ISBN 978 - 7 - 5668 - 1581 - 1

I. ①印… II. ①李… ②姜… III. ①商法—汇编—印度尼西亚 IV. ①D934. 239. 9

中国版本图书馆 CIP 数据核字(2015)第 175850 号

出版发行: 暨南大学出版社

地 址: 中国广州暨南大学

电 话: 总编室 (8620) 85221601

营销部 (8620) 85225284 85228291 85228292 (邮购)

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邮 编: 510630

网 址: <http://www.jnupress.com> <http://press.jnu.edu.cn>

排 版: 广州市天河星辰文化发展部照排中心

印 刷: 佛山市浩文彩色印刷有限公司

开 本: 787mm × 1092mm 1/16

印 张: 17.75

字 数: 400 千

版 次: 2015 年 11 月第 1 版

印 次: 2015 年 11 月第 1 次

定 价: 45.00 元

(暨大版图书如有印装质量问题, 请与出版社总编室联系调换)

前 言

随着全球经济一体化的迅速发展和中国加入世界贸易组织，“走出去”开拓国际市场成为中国企业今后生存和发展的必由之路。开拓海外市场，由于其行为发生在国外，除应遵照我国颁布的有关法律法规和政策，接受我国在当地大使馆、领事馆的指导和监督外，还要严格遵循国际法的基本准则以及国际惯例，并在企业注册登记、财务运营、设备折旧、税收筹划及外汇管制等方面遵守业务所在国的法律法规，尊重当地的文化习俗，并严格按照所在国的法律及政策办事。唯其如此，才能确保海外项目的顺利进行，并取得预期的经济效益。

印度尼西亚（以下简称印尼）位于亚洲东南部，是世界上最大的群岛国家。印尼拥有2.4亿人口，是世界第四人口大国。印尼是中国在东盟投资最多的国家之一，目前赴印尼寻求投资合作的中国企业不断增多，涉及能源、矿产、交通、通信、机械、金融、农业、渔业等诸多领域，大型投资项目不断涌现，充分显示了中国与印尼经贸合作的勃勃生机。据国家统计局数据显示，至2014年4月，中国为印尼非油气产品的最大出口国和进口国，且一直是印尼非油气产品的第一大贸易伙伴，日本和美国分居第二和第三位。

为了更好地开拓印尼市场，对其相关法律法规进行深入的调查研究，将能起到举足轻重的作用。《印度尼西亚涉商法律文件汇编》对印尼的相关法律法规进行了系统介绍，旨在为我国企业在海外业务及投资中有效规避并控制法律风险提供参考及借鉴，以利于我国企业海外投资项目的顺利进行。本书包括5部法律，分别是劳动法、油气法、税法通则、所得税法和增值税法。为准确与实用起见，本书采用中英文对照的方式进行编排。

由于法律资料来源不同，译校水平有限，本书难免存在不足之处，敬请广大读者批评指正。

编译者
2015年6月

目 录

前 言	1
PRESIDENT OF THE REPUBLIC OF INDONESIA ACT NUMBER 13 YEAR 2003 CONCERN- ING MANPOWER	1
印度尼西亚共和国总统 2003 年第 13 号关于劳动力的法令	59
REGULATION BY THE MINISTER OF ENERGY AND MINERAL RESOURCES OF THE REPUBLIC OF INDONESIA NUMBER 6 OF 2010 CONCERNING POLICY GUIDELINES TO INCREASE OIL AND GAS OUTPUT	99
印度尼西亚共和国 2010 年第 6 号关于增加油气产量政策指南能源与矿产部部长条例	108
THE THIRD AMENDMENT TO LAW OF THE REPUBLIC OF INDONESIA NUMBER 6 YEAR 1983 REGARDING TAXATION GENERAL PROVISIONS AND PROCEDURES	114
印度尼西亚共和国 1983 年第 6 号税法通则第 3 次修正案	152
CONSOLIDATION OF LAW OF THE REPUBLIC OF INDONESIA NUMBER 7 OF 1983 CONCERNING INCOME TAX AS LASTLY AMENDED BY LAW NUMBER 36 OF 2008	177
印度尼西亚共和国 1983 年第 7 号所得税法 2008 年第 36 号修正案	203
CONSOLIDATION OF LAW OF INDONESIA NUMBER 8 YEAR 1983 CONCERNING VALUE ADDED TAX AS LASTLY AMENDED BY LAW NUMBER 18 YEAR 2000	222
印度尼西亚共和国 1983 年第 8 号增值税法 2000 年第 18 号修正案	255

PRESIDENT OF THE REPUBLIC OF INDONESIA

ACT NUMBER 13 YEAR 2003

CONCERNING MANPOWER

CHAPTER I GENERAL PROVISIONS

Article 1

Under this Act, the following definitions shall apply:

1. Manpower Affairs refer to every matter that is related to people who are needed or available for a job before, during and after their employment.
2. Manpower is every one who is able to work in order to produce goods and/or services for fulfilling the need of either the relevant person or the society.
3. A Worker/Laborer is any person who works and receives wages or other forms of remuneration.
4. An Employer is individual, entrepreneur, legal entity, or other agency that employ manpower by paying them wages or other forms of remuneration.
5. An Entrepreneur is:
 - a. an individual, a partnership or a legal entity that operates a self-owned enterprise;
 - b. an individual, a partnership or a legal entity that independently operates a non-self-owned enterprise;
 - c. an individual, a partnership or a legal entity located in Indonesia, and representing an enterprise as mentioned under point a and point b that is domiciled outside the territory of Indonesia.
6. An Enterprise is:
 - a. every form of business, whether a legal entity or not, owned by an individual, a partnership or a legal entity that is either privately owned or state-owned, which employs workers/laborers by paying them wages or other forms of remuneration;
 - b. social and other businesses with officials in charge and which employ people by paying wages or other forms of remuneration.
7. Manpower Planning is the process of making a manpower plan systematically that is used as a basis and reference for formulating the policy, strategy and implementation of a sustainable

manpower development program.

8. Manpower Information is a group, a set or series and an analysis of data in the form of processed numbers, texts and documents that have specific meanings, values and messages concerning labor.

9. Job Training is the whole activity of providing workers or potential workers with, and paving the way for them to acquire, enhance and develop job competence, productivity, discipline, work attitude and ethics until a desired level of skills and expertise that match the grade and qualification required for a position or a job is reached.

10. Work Competence or Competency is the capability of each individual that covers aspects of knowledge, skill and work attitude which accords with prescribed standards.

11. Apprenticeship is a part of a job training system that integrates training at a training institute with working directly under the tutelage and supervision of an instructor or a more experienced worker/laborer in the process of producing goods and/or services in an enterprise in order to master a certain skill or trade.

12. Job Placement Service is an activity aimed at matching up manpower with employers so that manpower gets jobs that are suitable to their talents, interests and capabilities, and employers get the manpower they need.

13. A Foreign Worker is a visa holder of foreign citizenship with the intention to work in Indonesia's territory.

14. A Work Agreement is an agreement made between a worker/laborer and an entrepreneur or an employer that specifies work requirements, rights and obligations of the parties.

15. An Employment Relation is a relationship between an entrepreneur and a worker/laborer based on a work agreement, which contains the elements of job, wage and work order.

16. The Industrial Relations is a system of relations that is formed among actors in the process of producing goods and/or services, which consists of employers, workers/laborers and the government, which is based on the values of the Pancasila and the 1945 Constitution of the Republic of Indonesia.

17. A Trade Union/Labor Union is an organization that is formed from, by and for workers/laborers either inside or outside an enterprise, which is free, open, independent, democratic, and responsible in order to strive for, defend and protect the rights and interests of the workers/laborers and increase the welfare of the workers/laborers and their families.

18. A Bipartite Cooperation Institute is a communication and consultation forum on matters pertaining to industrial relations in an enterprise whose members consist of entrepreneurs and trade/labor unions that have been registered at a government agency responsible for manpower affairs or workers/laborers' representatives.

19. A Tripartite Cooperation Institute is a communication, consultation and deliberation forum on manpower issues (problems) whose members consist of representatives from entrepreneurs' organizations, workers/laborers' organizations and the government.

20. Company Regulations is a set of written rules and regulations made by an entrepreneur that specifies work requirements and the enterprise's discipline and rules of conduct.

21. A Collective Labor Agreement is an agreement resulted from negotiations between a trade/labor union or several trade/labor unions registered at a government agency responsible for manpower affairs and an entrepreneur or several entrepreneurs or an association of entrepreneurs that specifies work requirements, rights and obligations of the parties.

22. An Industrial Relations Dispute is a difference of opinion that results in a conflict between an entrepreneur or an association of entrepreneurs and a worker/laborer or a trade/labor union because of dispute over rights, interests and termination of employment and dispute between a trade/labor union and another trade/labor union in the same enterprise.

23. A Strike is a collective action of workers/laborers, which is planned and carried out by a trade/labor union to stop or slow down work.

24. A Lockout is the entrepreneur's action of refusing the worker/laborer in whole or in part to perform work.

25. The Termination of an Employment Relationship is termination of employment relationship because of a certain thing that results in the coming of an end of the rights and obligations of the workers/laborer and/or the entrepreneur.

26. A Child is every person who is under 18 (eighteen) years old.

27. Day is a period of time between 6 a. m. to 6 p. m.

28. One (1) day is a period of time of 24 (twenty-four) hours.

29. A Week is a period of 7 (seven) days.

30. A Wage is the right of the worker/laborer that is received and expressed in the form of money as remuneration from the entrepreneur or the employer to worker/laborer, whose amount is determined and paid according to a work agreement, consensus, or laws and regulations, including allowances for the worker/laborer and their family for a job and/or service that has been performed or will be performed.

31. Workers/Laborers' Welfare is a fulfillment of material and spiritual needs and/or necessities (of the worker) either inside or outside the employment relationships that may directly or indirectly enhance work productivity in a working environment that is safe and healthy.

32. Labor Inspection is the activity of controlling and enforcing the implementation of laws and regulations in the field of manpower.

33. Minister is the minister responsible for manpower affairs.

CHAPTER II STATUTORY BASIS, BASIC PRINCIPLES AND OBJECTIVES

Article 2

Manpower development shall have the Pancasila and the 1945 Constitution as its statutory basis.

Article 3

Manpower development shall be carried out based on the basic principle of integration through functional, cross-sector, central, and provincial/municipal coordination.

Article 4

Manpower development aims at:

- a. empowering and making efficient use of manpower optimally and humanely;
- b. creating equal opportunity and providing manpower (supply of manpower) that in accordance with the need of national and provincial/municipal developments;
- c. providing protection to manpower for the realization of welfare; and
- d. improving the welfare of manpower and their family.

CHAPTER III EQUAL OPPORTUNITIES

Article 5

Every worker/laborer shall have the same opportunity to get a job without discrimination.

Article 6

Every worker/laborer has the right to receive equal treatment without discrimination from their employer.

CHAPTER IV MANPOWER PLANNING AND MANPOWER INFORMATION

Article 7

(1) For the sake of manpower development, the government shall establish manpower policy and develop manpower planning.

(2) Manpower planning shall include:

- a. macro manpower planning; and
- b. micro manpower planning.

(3) In formulating policies, strategies, and implementing sustainable manpower development programs, the government must use the manpower planning as mentioned under sub-article (1) as guidelines.

Article 8

(1) Manpower planning shall be developed on the basis of manpower information, which, among others, includes information concerning:

- a. population and manpower;
- b. employment opportunity;
- c. job training including work competence;
- d. workers' productivity;
- e. industrial relations;
- f. working environment condition;
- g. wage system and workers' welfare; and
- h. social insurance for the employed.

(2) The manpower information as mentioned under sub-article (1) shall be obtained from all related parties, including both government and private agencies.

(3) Provisions concerning procedures for acquiring manpower information as well as procedures for the formulation and implementation of manpower planning as mentioned under sub-article (1) shall be regulated with a Government Regulation.

CHAPTER V JOB TRAINING

Article 9

Job training is provided and directed to provide, enhance, and develop job competence in order to improve capability, productivity and welfare.

Article 10

(1) Job training shall be carried out by taking into account the need of the job market and the need of the business community, either inside or outside the scope of employment relations.

(2) Job training shall be provided on the basis of training programs that refer to job competence standards.

(3) Job training may be administered step by step.

(4) Provisions concerning procedures for establishing job competence standards as mentioned

under sub-article (2) shall be regulated with a Ministerial Decision.

Article 11

Manpower has the right to acquire and/or improve and/or develop job competence that is suitable to their talents, interests and capabilities through job training.

Article 12

(1) Entrepreneurs are responsible for improving and/or developing their workers' competence through job training.

(2) Entrepreneurs who have met the requirements stipulated with a Ministerial Decision are under an obligation to improve and/or develop the competence of their workers as mentioned under sub-article (1).

(3) Every worker/laborer shall have equal opportunity to take part in job training that is relevant to his/her field of duty.

Article 13

(1) Job training shall be provided by government job-training institutes and/or private job-training institutes.

(2) Job training may be provided in a training place or in the workplace.

(3) In providing job training, government job-training institutes as mentioned under sub-article (1) may work together with the private sector.

Article 14

(1) A private job-training institute can take the form of an Indonesian legal entity or individual proprietorship.

(2) Private job-training institutes as mentioned under sub-article (1) are under an obligation to have a permission or registration from the agency responsible for manpower affairs in the local district/city.

(3) A job-training institute run by a government agency shall register its activities at the government agency responsible for manpower affairs in the local district/city.

(4) Provisions concerning procedures for acquiring a permission from the authorities and registration procedures for job-training institutes as mentioned under sub-article (2) and sub-article (3) shall be regulated with a Ministerial Decision.

Article 15

Job training providers are under an obligation to make sure that the following requirements are met:

- a. the availability of trainers;
- b. the availability of a curriculum that is suitable to the level of job training to be given;
- c. the availability of structures and infrastructure for job training; and
- d. the availability of fund for the perpetuation of the activity of providing job training.

Article 16

(1) Licensed private job-training institutes and registered government-sponsored job-training institutes may obtain accreditation from accrediting agencies.

(2) The accrediting agencies as mentioned under sub-article (1) shall be independent, consisting of community and government constituents, and shall be established with a Ministerial Decision.

(3) The organization and procedures of work of the accrediting agencies as mentioned under sub-article (2) shall be regulated with a Ministerial Decision.

Article 17

(1) The government agency responsible for labor/manpower affairs in a district/city may temporarily terminate activities associated with the organization and administration of a job training in the district/city if it turns out that the implementation of the job training:

- a. is not in accordance with the job training directions as mentioned under Article 9; and/or
- b. does not fulfill the requirements as mentioned under Article 15.

(2) The temporary termination of activities associated with the organization and administration of job training as mentioned under sub-article (1) shall be accompanied with the reasons for the temporary termination and corrective suggestions and shall apply for no longer than 6 (six) months.

(3) The temporary termination of the implementation of the administration of job training only applies to training programs that do not fulfill the requirements as specified under Article 9 and Article 15.

(4) Job training providers who, within a period of 6 (six) months, do not fulfill and complete the suggested corrective suggestions as mentioned under sub-article (2) shall be subjected to a sanction that rules the termination of their training programs.

(5) Job training providers who do not obey and continue to carry out the training programs that have been ordered for termination as mentioned under sub-article (4) shall be subjected to a sanction that revokes their licenses and cancels their registrations as job training providers.

(6) Provisions concerning procedures for temporary termination, termination, revocation of license, and cancellation of registration shall be regulated with a Ministerial Decision.

Article 18

(1) Manpower shall be entitled to receive job competence recognition after participating in job training provided by government job-training institutes, private job-training institutes, or after participating in job training in the workplace.

(2) The job competence recognition as mentioned under sub-article (1) shall be made through job competence certification.

(3) Manpower with experience in the job may, despite their experience, takes part in the job training as mentioned under sub-article (1) in order to obtain job competence certification as mentioned under sub-article (2) .

(4) To provide job competence certification, independent profession-based certification agencies shall be established.

(5) Provisions concerning the procedures for the establishment of certification agencies as mentioned under sub-article (4) shall be regulated with a Presidential Decision.

Article 19

The provision of job training to disabled manpower shall take into account the type, degree of disability and their capability.

Article 20

(1) To support the improvement of job training for the sake of manpower development, a national job-training system that serves as a reference for the administration of job training in all fields of work and/or all sectors shall be developed.

(2) Provisions concerning the form, mechanism and institutional arrangements of the national job-training system as mentioned under sub-article (1) shall be regulated with a Government Regulation.

Article 21

Job training may be administered by means of apprenticeship systems.

Article 22

(1) Apprenticeship shall be carried out based on a written apprenticeship agreement between the participant and the entrepreneur.

(2) The apprenticeship agreement as mentioned under sub-article (1) shall at least have stipulations explaining the rights and obligations of both the participant and the entrepreneur as well as the period of apprenticeship.

(3) Any apprenticeship administered without an apprenticeship agreement as mentioned under sub-article (2) shall be declared illegal and as a consequence, the status of the apprenticeship's participants shall change to be the workers/laborers of the enterprise.

Article 23

Manpower that has completed an apprenticeship program is entitled to get their job competence and qualifications recognized by enterprises or by certification agency.

Article 24

Apprenticeship can take place within the enterprise or at the place where job training is organized, or at another enterprise, inside or outside Indonesia's territory.

Article 25

(1) The apprenticeship which is conducted outside Indonesia's territory must obtain a license from the Minister or the appointed official.

(2) In order to obtain the license as mentioned under sub-article (1), the organizer of the apprenticeship must be in the form of an Indonesian legal entity in accordance with the prevailing laws and regulations.

(3) Provisions concerning the procedures for obtaining license for apprenticeship organized outside Indonesia's territory as mentioned under sub-article (1) and (2) shall be regulated with a Ministerial Decision.

Article 26

(1) Any apprenticeship organized outside Indonesia's territory must take into account:

- a. the dignity and status of Indonesians as a nation;
- b. mastery of a higher level of competence; and
- c. protection and welfare of apprenticeship participants, including their rights to perform religious obligations.

(2) The Minister or appointed official may order the termination of any apprenticeship taking place outside Indonesia's territory if it turns out that its organization is not pursuant to sub-article (1).

Article 27

(1) The Minister may require qualified enterprises to organize apprenticeship programs.

(2) In determining the requirements for organizing apprenticeship programs as mentioned under sub-article (1), the Minister must take into account the interests of the enterprise, the society and the State.

Article 28

(1) In order to provide recommendation and consideration in the establishment of policies and coordination of job training and apprenticeship activities, a national job-training coordinator institute shall be established.

(2) The formation, membership and procedures of work of the national job-training coordinator institute as mentioned under sub-article (1) shall be regulated with a Presidential Decision.

Article 29

(1) The Central Government and/or Regional Governments shall develop job training and apprenticeship.

(2) The development of job training and apprenticeship shall be directed to improve the relevance, quality, and efficiency of job training administration and productivity.

(3) Efforts to improve productivity as mentioned under sub-article (2) shall be made through the development of productive culture, work ethics, technology and efficiency of economic activities directed towards the realization of national productivity.

Article 30

(1) In order to enhance productivity as mentioned under sub-article (2) of Article 29, a national productivity institute shall be established.

(2) The national productivity institute as mentioned under sub-article (1) shall be in the form of an institutional productivity enhancement service network, which supports cross-sector and cross-regional activities/programs.

(3) The formation, membership and procedures of work of the national productivity institute as mentioned under sub-article (1) shall be regulated with a Presidential Decision.

CHAPTER VI JOB PLACEMENT

Article 31

Every manpower shall have equal right and opportunity to choose a job, get a job, or move to another job and earn decent income irrespective of whether they are employed at home or abroad.

Article 32

(1) Job placement shall be carried out based on transparency, freedom, objectivity, fairness and equal opportunity without discrimination.

(2) Job placement shall be directed to place manpower in the right job or position which best suits their expertise, skills, talents, interests and capabilities by observing their dignity and human rights as well as legal protection.

(3) Job placement shall be carried out by taking into account the equal distribution of opportunity and the provision of manpower in accordance with the needs of the national and regional development programs.

Article 33

The placement of manpower consists of:

- a. domestic manpower placement; and
- b. overseas manpower placement.

Article 34

Provisions concerning the placement of manpower in foreign countries as mentioned under Article 33 point b shall be regulated with an act.

Article 35

(1) Employers who need workforce may recruit by themselves the workforce they need or have them recruited through job placement agencies.

(2) Job placement agencies as mentioned under sub-article (1) are under an obligation to provide protection to manpower that they try to find a placement for since their recruitment takes place until their placement is realized.

(3) In employing people who are available for a job, the employers as mentioned under sub-article (1) are under an obligation to provide protection which shall include protection for their welfare, safety and health, both mentally and physically.

Article 36

(1) The placement of manpower by a job placement agency as mentioned under sub-article (1) of Article 35 shall be carried out through the provision of job placement service.

(2) Job placement service as mentioned under sub-article (2) shall be provided/rendered in an integrated manner within a job placement system of which the following elements are parts:

- a. job seekers;
- b. job vacancies;
- c. job market information;
- d. inter-job mechanisms; and
- e. institutional arrangements for job placement.

(3) Activities connected with the elements of the job placement system as mentioned under sub-article (2) can take place separately and are aimed at the realization of the placement of manpower.

Article 37

(1) Job placement agencies as mentioned under sub-article (1) of Article 35 consist of:

- a. government agencies responsible for manpower affairs; and
- b. private agencies with legal status.

(2) In order to provide job placement service, the private agency as mentioned under sub-article (1) point b is under an obligation to possess a written permission from the Minister or the appointed official.

Article 38

(1) Job placement agencies as mentioned under point a sub-article (1) of Article 37 are prohibited from collecting placement fees, either directly or indirectly, in part or in whole, from people available for work whom they find a placement for and their users.

(2) Private job placement agencies as mentioned under point b sub-article (1) of Article 37 may only collect placement fees from users of their service and from workers of certain ranks and

occupation whom they have placed.

(3) The ranks and occupation as mentioned under sub-article (2) shall be regulated with a Ministerial Decision.

CHAPTER VII EXPANSION OF JOB OPPORTUNITIES

Article 39

(1) The government is responsible for making efforts to expand job opportunities both inside and outside the employment relationships.

(2) The government and the society shall jointly make efforts to expand job opportunities both inside and outside the employment relationships.

(3) All the government's policies, at the central or regional level and in each sector, shall be directed to realize the expansion of job opportunities both inside and outside the employment relationships.

(4) Financial institutions, either banks or non-banks, and the business society need to help and facilitate each activity of the society which can create or develop expansion of job opportunities.

Article 40

(1) Expansion of employment opportunities outside employment relationships shall be undertaken through the creation of productive and sustainable activities by efficient use of natural resource potentials, human resources, and effective practical technologies.

(2) Expansion of employment opportunities as mentioned under sub-article (1) shall be undertaken through patterns of formation and development for the self-employed, the application of labor-intensive system, the application and development of effective practical technology, and efficient use of volunteers or other patterns that may encourage the creation of job opportunity expansion.

Article 41

(1) The government shall determine policies on manpower affairs and job opportunity expansion.

(2) The government and the society shall jointly exercise control over the implementation of the policies as mentioned under sub-article (1).

(3) In implementing the duty as mentioned under sub-article (2), a coordinating body with government and society constituents as its members may be established.

(4) Provisions concerning the expansion of job opportunities as mentioned under Article 39 and Article 40, and the formation of a coordinating body as mentioned under sub-article (3) of this Article shall be regulated with a Government Regulation.