



Indonesia

*A legal reference for worker protections in
global supply chain production*

Table of Contents

Child & Juvenile Labor 1	Wages & Benefits..... 8
Special Provisions for Women 2	Minimum Wages
Working Hours	Overtime Rates
Menstruation	Pay Practices
Pregnancy and Childbirth	Hours of Work..... 10
Freedom of Association & Collective Bargaining..... 3	Regular Hours
Trade/Labor Unions	Overtime Hours
Collective Bargaining Agreements	Rest Periods
Right to Strike	Contract Labor..... 11
Employment Practices & Personnel Policies..... 5	
Permanent and Temporary Work Agreements	
Probation	
Termination of Employment	
Death	



Verité

44 Belchertown Road • Amherst, MA 01002 • USA
Tel: +1.413.253.9227 • Fax: +1.413.256.8960
Email: verite@verite.org

Child & Juvenile Labor

A child is a person under 18 (eighteen) years of age.

Act Concerning Manpower, 2003, Article 1¹

Entrepreneurs² may not employ children.

Ibid, Article 68

Exemption from Article 68 above is made for employment of children between the ages of 13 (thirteen) and 15 (fifteen) in light work for no more than 3 (three) hours during the daytime (without disturbing their schooling) with written permission from parents or guardians. The entrepreneur must conclude a work agreement with the parents or guardians of the children.

Ibid, Article 69

Where children are employed together with adult workers, the children's workplace must be kept separate.

Ibid, Article 72

Children may not be employed in the worst forms of child labor, which include all forms of slavery; jobs involving prostitution or the production of pornography, or gambling; all jobs in connection with the production and trade of alcoholic beverages and narcotics; and all jobs "harmful to the health, safety and morals of the child," as determined by Ministerial Decision.

Ibid, Article 74

¹ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.

² Entrepreneurs are defined as: "(a) An individual [proprietor], a partnership or a legal body that runs an enterprise that he or she or it owns; (b) An individual, a partnership or a legal body that independently runs an enterprise that does not belong to him, her or it; (c) An individual, a partnership or a legal body that is situated in Indonesia but represents an enterprise as referred to under point a and point b that has its seat/base outside the territory of Indonesia."

Special Provisions for Women

Working Hours

Women younger than 18 (eighteen) years of age and pregnant women who, “according to a doctor’s account, are at risk of damaging their health or . . . [the health of] the [unborn] babies” may not work between 11 p.m. and 7 a.m. *Act Concerning Manpower, 2003, Article 76 (1) & (2)*³

If women 18 or older work between 11 p.m. and 7 a.m., the employer must (a) provide them with nutritious food and drinks, and (b) maintain decency, morality, and security in the workplace; as regulated by Ministerial Decision. *Ibid, Article 76 (3)*

Employers must provide roundtrip transport for women who work between 11 p.m. until 5 a.m.; as regulated by Ministerial Decision. *Ibid, Article 76 (4)*

Menstruation

Female workers who inform their employer that they “feel pain during their menstrual period” are not obliged to come to work on the first and second day of menstruation. This should be codified in employment agreements, enterprise rules and regulations or collective agreements. *Act Concerning Manpower, 2003, Article 81*

Pregnancy and Childbirth

Pregnant female workers are entitled to a “1.5 (one-and-a-half) month period of rest” with full pay both before the due date of their babies and after the birth. *Act Concerning Manpower, 2003, Articles 82 & 84*

Employers must provide “proper opportunities” for women whose babies “still need breastfeeding to breast-feed their babies if that must be performed during working hours.” *Ibid, Article 83*

Employers may not fire a worker who is absent from work because she is pregnant, giving birth, having a miscarriage, or breast-feeding. *Ibid, Article 153 (e)*

³ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.

Freedom of Association & Collective Bargaining

Freedom of association and assembly, of verbal and written expression and the like, shall be prescribed by law.

1945 Constitution of Indonesia, Chapter X, Article 28

Trade/Labor Unions

Every worker has the right to form and join a trade/labor union.

Act Concerning Manpower, 2003, Article 104 (1)⁴

Every enterprise employing 50 (fifty) workers or more must establish a “bipartite cooperation institute” as a “forum for communication, consultation and deliberation on labor issues.” It shall include representatives of the management and “democratically appointed” representatives of the workers.

Ibid, Article 106

Employers may not fire a worker because the worker establishes or becomes a member of a trade/labor union or carries out union activities outside of working hours.

Ibid, Article 153 (g)

Collective Bargaining Agreements

Every enterprise employing 10 (ten) workers or more must have a collective work agreement with the appropriate union(s) or a written set of “enterprise rules and regulations,” approved by the government Minister responsible for manpower affairs, that covers rights and obligations of management and labor, working conditions, discipline and rules of conduct.

Act Concerning Manpower, 2003, Articles 108-116

The employer must distribute the text of any collective work agreement, free of charge, to each worker.

Ibid, Article 126 (3)

In order to represent workers in collective bargaining negotiations at a workplace, a trade union must fulfill one of the following conditions:

Ibid, Articles 119 and 120

- (1) when there is one trade union at a workplace, it must either (a) have a membership of more than 50 percent of the workforce; or (b) have the support of over 50 percent of the workforce as determined through a vote;
- (2) when there is more than one trade union at a workplace, either (a) the trade union with a membership of over 50 percent of the workforce is awarded bargaining rights; (b) if no one union has a membership of over 50 percent of the workforce, two or more unions may form a coalition the combined membership of which is over 50 percent of the workforce; or (c) if the terms of (a) and (b) cannot be met, a negotiating team made up of proportional representation of the membership base of each trade union present at the workplace may be established.

⁴ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.

Right to Strike

Workers have a fundamental right to strike, if the strike is “staged legally, orderly, and peacefully.” However, workers and unions must give written notice of the intention to strike to management and to the government 7 (seven) days or more prior to striking, or the strike is illegal.

Act Concerning Manpower, 2003, Articles 137 & 140

No one shall prevent workers and unions from striking legally, peacefully and in an orderly fashion.

Ibid, Article 143

During a legal strike, employers may not replace striking workers with other workers nor impose any sanctions against striking workers.

Ibid, Article 144

The information contained in Verité Labor Law Digests is for general use and does not constitute legal advice.

Employment Practices & Personnel Policies

Permanent and Temporary Work Agreements

All work agreements must be for an “unspecified” (permanent) or “specified” (temporary) amount of time. Temporary work agreements “cannot be made for jobs that are permanent by nature,” but only for jobs that are (a) temporary by nature, (b) completed in less than 3 (three) years, (c) seasonal, or (d) related to an experimental activity or product.

Act Concerning Manpower, 2003, Articles 56 (1) & 59 (1) & (2)⁵

Probation

A temporary job (“work agreement for a specified period of time”) cannot include a probation period.

Act Concerning Manpower, 2003, Article 58

A permanent job (“work agreement for an unspecified period of time”) may include a probation period of no more than 3 (three) months.

Ibid, Article 60

Termination of Employment

Management; the worker; the union, if any; and the government “must make all efforts to prevent termination of employment from taking place.” The employer must negotiate with the worker’s trade/labor union representative, or directly with a worker not belonging to a trade/labor union, prior to termination.

Act Concerning Manpower, 2003, Article 151 (1)

A worker may be terminated, if the negotiation described above fails to resolve the issue, only after “the institute for the settlement of industrial relation disputes” gives permission to the employer, unless the worker is still on probation. Any termination not approved by the institute shall be null and void, and the worker will be entitled to be rehired with back pay and benefits.

Ibid, Articles 151 (3), 154 (a), 155

When a worker is terminated, the employer must pay severance pay and/or reward-for-years-of-services pay plus compensation pay for rights or entitlements that the dismissed worker has not used. The amount of required severance or reward-for-years-of-services pay – approximately one month’s pay per year of service – is spelled out in detail in the statute.

Ibid, Article 156

Certain impermissible grounds for termination are spelled out in the statute. These include, among others, such grounds as absence from work due to illness; absence from work due to religious obligation; or discrimination on the basis of belief, religion, political orientation, ethnicity, color, race, sex, physical condition or marital status.

Ibid, Article 153

Certain “grave wrongdoings” that are permissible grounds for termination without submission to the “institute for the settlement of industrial relation

Ibid, Article 158

⁵ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.

disputes” are spelled out in the statute, including stealing from the employer, drunkenness, drug use, gambling, attacking or threatening co-workers, etc. Accusations of committing such wrongdoings must be supported by the following evidence: “a. The worker/laborer is caught red-handed; b. The worker/laborer admits that he/she has committed a wrongdoing; or c. Other evidence in the form of reports of events made by the authorities at the enterprises and confirmed by no less than 2 (two) witnesses.”

Termination for violation of the enterprise’s rules or of the collective work agreement must be preceded by the issuance of first, second, and third warning letters, each of which expires after 6 (six) months. Workers may also be terminated for unexplained absence of 5 (five) or more consecutive workdays.

Ibid, Articles 161 & 168

If a worker has been mistreated by his/her employer (“battered, rudely humiliated or intimidated”; requested or required to commit illegal acts; not paid wages on-time for three or more months; required to perform work outside the work contract; or required to conduct activities that endanger the worker’s life, safety, health, or “morality” outside of the work contract), s/he may request the “institute for the settlement of industrial relation disputes” to terminate her/his employment with double severance pay.

Ibid, Article 169

An employer may terminate the employment of a worker based on a “change in status [of the enterprise], merger, fusion, or change in the ownership of the enterprise and the workers are not willing to continue their employment.” In this event, workers shall be paid severance pay, reward-for-years-of-service pay, and compensation pay for rights or entitlements that the worker has not used, as specified in Article 156 (see above) of this statute. If workers are not given the opportunity to work at the enterprise under its new status, then workers shall be paid twice the amount of severance pay specified in Article 156 (see above), as well as reward-for-years-of-service pay and compensation pay for rights or entitlements that the worker has not used.

Ibid, Article 163

The employment of workers may be terminated in the event that an enterprise is closed down because of two years of consecutive losses, or “force majeure.” In this event, workers shall be paid severance pay, reward-for-years-of-service pay, and compensation pay for rights or entitlements that the worker has not used, as specified in Article 156 of this statute (see above).

Ibid, Article 164

If the authorities arrest a worker who is alleged to have committed a crime, the employer may stop paying that employee wages, but must provide financial support for her or his dependents for up to 6 (six) months according to the following scale: if the worker has 1 (one) dependent, 25% of the worker’s wages; if the worker has 2 (two) dependents, 35% of the wages; if the worker has 3 (three) dependents, 45% of the wages, and if the worker has 4 (four) dependents, 50% of the wages. If the worker is found not guilty of the crime within 6 (six) months of the arrest, the employer must reemploy her/him. If the worker is found guilty, or if s/he is still detained longer than 6 (six) months, the employer may terminate her/his employment.

Ibid, Article 160

Death

When a worker dies, the employer shall give the worker's heirs twice the amount of severance pay stipulated in Article 156 (2), reward pay for period of employment as stipulated in Article 156 (3), and compensation pay for entitlements that have not been used as stipulated in Article 156 (4). (See Termination of Employment above.)

Ibid, Article 166

The information contained in Verité Labor Law Digests is for general use and does not constitute legal advice.

Wages and Benefits

Minimum Wages

“Every worker/laborer has the right to earn a living that is decent from the viewpoint of humanity.” Minimum wages are set as “provincial or district/city-based minimum wages” or “sector-based minimum wages within a given province or district/city.”

Act Concerning Manpower, 2003, Articles 88(1) & 89⁶

There is no national minimum wage; area wage councils working under the supervision of the National Wage Council establish provincial or district/city-based minimum wages.

Verité Auditors

Entrepreneurs⁷ may not pay wages that fall below the minimum wage. However, if an entrepreneur is unable to pay the minimum wage, that entrepreneur may be permitted to “postpone” payment of the minimum wage, as regulated by Ministerial Decision.

Act Concerning Manpower, 2003, Articles 90

Overtime Rates

From Monday to Saturday, the first hour of overtime should be paid 1.5 times the basic hourly rate and each additional hour should be paid two times the basic hourly rate. For Sundays and public holidays, overtime pay is two times the basic hourly rate during normal working hours, three times the basic rate for the first hour after normal working hours, and four times the basic hourly rate for each additional hour.

Decision of the Minister of Labor No. 72/1984 (Kep. 72/MEN/1984)

Pay Practices

Workers who are absent due to illness are entitled to receive 100% of their wages during the first four months of their illness, 75% during the second four months, 50% during the third four months, and 25% in subsequent months. They may be terminated after one year.

Act Concerning Manpower, 2003, Articles 93 (3) & 153 (a)

Workers who are absent to get married are entitled to up to 3 (three) days’ pay during their absence; if they are absent for the marriage of their son or daughter, up to 2 (two) days pay; for the circumcision of their son or the baptism of their children, up to 2 (two) days pay; if a male worker is absent because his wife gives birth or suffers a miscarriage, up to 2 (two) days pay; if a worker is absent due to the death of a spouse, parent, parent-in-law, child, or child-in-law, up to 2 (two) days pay; and if a member of the worker’s household dies, 1 (one) days pay.

Ibid, Article 93 (4)

“Violations” committed by the worker either intentionally or “by neglect” may be penalized by a fine.

Ibid, Article 94

⁶ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.

⁷ See page 1, footnote 2 for a definition of “entrepreneur.”

The late payment of wages by entrepreneurs, either intentionally or “by neglect”, shall be penalized by a fine corresponding to “a certain percentage” of the worker’s wage, as determined by the government. If the enterprise is bankrupt, payment of workers’ wages shall be prioritized over the payment of other debts.

Ibid, Article 94

The information contained in Verité Labor Law Digests is for general use and does not constitute legal advice.

Hours of Work

Regular Hours

Working hours are 7 (seven) hours for 5 (five) days and 5 (five) hours on Saturdays, for 40 (forty) hours a week; or 8 (eight) hours a day and 40 (forty) hours a week for 5 (five) workdays; unless workers agree to work longer. (NB: This law does “not apply to certain [unspecified] business sectors or certain [unspecified] types of work”).

Act Concerning Manpower, 2003, Articles 77 & 78⁸

Overtime Hours

Workers can be required to work overtime no more than 3 (three) hours a day or 14 (fourteen) hours a week for overtime pay. Overtime shall be voluntary.

Act Concerning Manpower, 2003, Article 78

Rest Periods

Entrepreneurs⁹ shall provide workers with at least half an hour break after working for 4 (four) consecutive hours.

Act Concerning Manpower, 2003, Article 79 (a)

Entrepreneurs shall provide workers with a weekly rest period of no less than 1 (one) day after 6 workdays or 2 (two) days after 5 (five) workdays.

Ibid, Article 79 (b)

Entrepreneurs shall provide workers with a minimum of 12 (twelve) workdays of rest per year if the worker works for 12 (twelve) consecutive months. This shall be specified in a work agreement, the rules and regulations of the enterprise or a collective agreement. In “certain enterprises” to be specified by Ministerial Decision, every seventh and eighth year a “long period of rest” of no less than 2 (two) months (1 month in the seventh and 1 month in the eighth year) instead of the normal annual amount. This will repeat after every 6 (six) years of work.

Ibid, Article 79 (c) & (d)

⁸ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.

⁹ See page 1, footnote 2 for a definition of “entrepreneur.”

Contract Labor

Workers from “labor providers/suppliers” must not perform an enterprise’s main activities or activities that are directly related to the production process. Such workers may perform “auxiliary service activities or activities that are indirectly related to production processes.”

*Act Concerning Manpower, 2003, Article 66 (1)*¹⁰

“Labor providers/suppliers” must conclude a written employment agreement with workers, for a specified time period (as per Article 59 – see Employment Practices and Personnel Policies section); or for an unspecified time period as agreed upon in writing. The “labor provider” is responsible for wages, “welfare protection,” working conditions and disputes.

Ibid, Article 66 (2)

“Labor providers/suppliers” must obtain an operating license from “a government agency responsible for labor/manpower affairs.”

Ibid, Article 66 (3)

¹⁰ Note that Verité has referenced the following version of the Manpower Act in this Labor Law Digest: *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*. Unofficial Translation Prepared by ILO Jakarta. NATLEX database ISN 64764. © 2004, International Labor Organization. Material in quotes is directly from this translation.