

**ACT OF THE REPUBLIC OF INDONESIA NUMBER 39 YEAR 2004
CONCERNING
PLACEMENT AND PROTECTION
OF INDONESIAN OVERSEAS WORKER**

**WITH GRACE OF GOD THE ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

- Considering** :
- a. that to work is a human right that must be up lifted, respected, and guaranteed;
 - b. that every worker has equal right and opportunity without discrimination to obtain a proper work and income, both side and outside the country according to their expertise, skill, talent, interest, and ability;
 - c. that Indonesian overseas worker is frequently made as human traffic object, including slavery and force work, violence casualty, harsh, crime on human dignity and esteem, and other violated human rights;
 - d. that the country obliged to guarantee and protect her own citizen human right who works both inside and outside the country based on the principles of equality, democracy, social justice, gender equality, anti discrimination, and anti human traffic;
 - e. that the placement of Indonesian overseas worker constitutes and effort to realize equal right and opportunity for worker to obtain proper work and income, which implementation is conducted by still taking into account the dignity, human right, and legal protection as well as working opportunity fairness and procurement of worker that in line with national requirement;

- f. that the placement of Indonesian overseas worker must be conducted in an integrated way among government agencies either in central and local levels and community participation in a legal system to protect Indonesian overseas worker;
- g. that the existing regulations on manpower has not yet properly, affirmatively and exclusively regulated the employment and protection of Indonesian overseas worker;
- h. that the act Number 13 year 2003 concerning Manpower stated that the placement of Indonesian overseas worker shall be regulated by Law;
- i. That based on the consideration as stated in letters a, b, c, d, e, f, g, and h, it is necessary to establish an Act concerning the Placement and Protection of Indonesian Overseas Worker;

In View of

- 1. Article 20, Article 21, Article 27, paragraph (2), Article 28 D paragraph (1) and paragraph (2), Article 28 E paragraph (1) and paragraph (3), Article 29 of the 1945 Constitution of the Republic of Indonesia;
- 2. Act Number 13 year 2003 concerning Manpower (State Gazette of 2003, Supplement of State Gazette Number 4279);

**By the Joint Approval Between
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
AND
THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

DECIDED :

**To Stipulate : ACT CONCERNING THE PLACEMENT AND PROTECTION OF
INDONESIAN OVERSEAS WORKER.**

CHAPTER I

GENERAL PROVISION

Article 1

In this Act the meaning of :

1. Indonesian worker hereinafter called as worker is every Indonesian citizen who met the requirements to work overseas in an employment relation for certain period with payment.
2. Prospective Indonesian worker hereinafter called as Prospective Worker shall be every Indonesian citizen who met the requirements as job seeker who will work overseas and is registered in District / Municipality Administration agency that responsible for manpower.
3. Worker placement is the service activities to introduce worker according to his / her talent, interest, and ability with Employer in foreign country that covering the entire process of recruitment, document handling, education and training, accomodation, daparture preparation, departure to the destination country, and returning from the destination country.

4. Protection of worker shall be all efforts to protect the interest of Prospective Worker / Worker in realizing the compliance with his rights according to the regulation, either before, during, or other employment.
5. Private Worker Placement Agency, hereinafter called as private agency is legal entity having obtained written permit from the government to conduct worker placement service abroad.
6. Business Partner in Government Institution or Business Entity in the form of legal entity in destination country that responsible for the placement of worker to Employer.
7. The Employer of Indonesian worker hereinafter called as Employer is Government Legal Entity, Private Legal Entity, and/ or Individual in the destination country that employ worker.
8. Placement Agreement is a written agreement between the private agency and Business Partner or Employer containing the rights and obligations of each party for the placement and protection of worker in the destination country.
9. Worker Placement Agreement is a written agreement between private agency and prospective worker that containing each party rights obligations in respect of worker placement in the destinations of each party.
10. Working Contract is a written agreement between worker and Employer that containing working conditions, rights, and obligations of each party.
11. Overseas Worker Card hereinafter called as KTKLN is the Identity card of worker who met the requirements and procedure to work abroad.
12. Working Visa is a written permit given by the authority of the representative of a certain country that containing the approval to enter and work in the relevant country.

13. Worker Placement Agency Permit hereinafter called as SIPPTKI is a written permit given by the Minister to the company that will be private worker placement Agency.
14. Worker Supply Permit hereinafter called as SIP is the permit given by the Government to private agency to recruit prospective worker from certain area, for specific position, and to be employed with particular Prospective Employer within certain period.
15. Person is individual or legal entity.
16. Government is the apparatus of the Republik of Indonesia that consisting of the President and the Ministers.
17. Minister is the Minister who responsible of manpower.

Article 2

The placement and protection of prospective worker / worker shall be based on integrity, equality, democracy, sosial justice, gender equivalent and justice, non discrimination, as well as against human trafficking.

Article 3

The placement and protection of prospective worker / worker is aimed to :

- a. Empower and employ worker optimally and humanly;
- b. Ensure and protect prospective worker / worker in home country, destination country, until return to point of origin in Indonesia;
- c. Improve the prosperity of worker and their family;

Article 4

Individual is forbidden to place worker to work abroad.

CHAPTER II
DUTIES, RESPONSIBILITY AND OBLIGATION
OF THE GOVERNMENT

Article 5

- (1) The Government shall arrange, develop, implement, and control the placement and protection worker abroad.
- (2) In conducting the duties as stated in paragraph (1), the Government may delegate a part of its authority and / or delegate duties to Local Administration in accordance with regulations.

Article 6

The Government shall responsible to improve protection effort of worker abroad.

Article 7

In implementing the duties and responsibilities as stated in Article 5 and Article 6 the Government shall be required of :

- a. Ensure the compliance of Prospective worker / worker rights, both those who departed through worker placement institution, or independently;
- b. Supervise the implementation of prospective worker placement;
- c. Establish and develop an information system on prospective worker placement in destination country;
- d. Perform diplomacy effort to ensure rights compliance and protections of worker optimally in destination country; and
- e. Protects worker during the period pre departure, during placement and post placement;

**CHAPTER III
RIGHT AND OBLIGATION OF WORKER**

Article 8

Every Prospective worker / worker has equal right and opportunity to :

- a. Work In the foreign country;
- b. Obtain proper Information about overseas Job market and procedure of worker placement abroad;
- c. Obtain request service and treatment in placement abroad;
- d. Obtain freedom to embrace his / her religion and belief and opportunity to do their worship according to religion and belief that he / she embrace;
- e. Obtain wage according to the salary standard prevalls in the destination country;
- f. Obtain equal right, opportunity and treatment as obtained by other foreign worker in accordance with regulations in the destination country;
- g. Obtain legal protection in accordance with regulations to any action that may harm his / her dignity and violation of rights sepecified by the regulations during the placement abroad;
- h. Obtain security pretction and returning to point of origin safely;
- i. Obtain draft- working contract;

Article 9

Every Prospective worker / worker shall be requires to :

- a. Adhere the regulations both of the home country and destination country;
- b. Comply and perform the Job according to working contract;
- c. Pay worker placement service fee abroad in accordance with regulation; and
- d. Inform or report the arrival, existence and return of worker to Representative of the Republik of Indonesia in the destination country;