

NEW GOVERNMENT REGULATION ON SALARIES

Twelve years after the issuance of Law No. 13 of 2003 on Manpower (“**Manpower Law**”), the Government of Indonesia finally issued its new regulation on Salaries, Government Regulation No. 78 of 2015 on Salaries (“**GR 78/2015**”), which is the implementation of Article 97 of the Manpower Law. GR 78/2015 covers among other things: (i) salary policy, (ii) decent income, (iii) protection of salary, (iv) minimum salary, (v) matters that can be calculated with salary, (vi) fines and salary deductions, and (vii) administrative sanctions. GR 78/2015 repeals Government Regulation No. 8 of 1981 on Salary Protection.

Under GR 78/2015, an employee’s right to a salary occurs when an employment relationship is created between the employee and the employer, and ends at the time of the termination of the employment relationship. The salary must be sufficient for the employees to live a decent life where their physical, non-physical and social needs are fulfilled. An employee’s income can be in the form of salary and non-salary. Salary consists of (i) salary without allowance, (ii) basic salary and fixed allowance, and (iii) basic salary, fixed allowance and non-fixed allowance. Meanwhile non-salary may consist of a religious holiday allowance, bonus, money as a substitute of work facilities, and service pay in certain businesses.

Every employee is entitled to the same salary for the same work in the same amount. Salaries are decided on a time-basis (daily, weekly or monthly) and/or results and shall be paid in Rupiah currency at the date and at the place agreed by the employer and employee in the employment contract, company regulations, or collective labour agreement, either in cash or via bank transfer. The decision on the salary amount should consider the salary structure and salary scale created by the employer on the basis of the job classification, title/position, work tenure, education and competency. The salary structure and salary scale must be attached when the company applies for:

- a. the Legalization or Renewal of the Company Regulations; or
- b. the Registration, Extension or Renewal of the Collective Labour Agreement.

GR 78/2015 also sets out that provincial governors are to determine the minimum salary in their respective territory. The minimum salary means the lowest monthly salary which consists of salary without allowances or basic salary and fixed allowances. The minimum salary is for employees with a work period of less than one year in the company. Meanwhile, for employees with a work period of one or more years, salaries should be discussed between the

employee and the employer. The minimum salary is to be determined annually based on the decent living needs (the components of which are to be reviewed every five years by the Ministry of Manpower by taking into account studies undertaken by the National Salary Board) and by taking account of productivity and economic growth. The formula to calculate the minimum salary is as follows:

$$UM_n = UM_t + \{UM_t \times (\text{Inflation} + \% \text{ ? PDB}_t)\}$$

UM_n = new minimum salary

UM_t = current minimum salary

$\% \text{ ? PDB}_t$ = current year's gross domestic product (economic growth)

Administrative sanctions may be imposed on an employer who inter alia:

1. does not pay employees the religious holiday allowance,
2. does not distribute the service pay in certain business to employees,
3. does not prepare the salary structure and scale and inform employees of this structure and scale,
4. does not pay employees salary at the determined time period,
5. does not fulfill its obligations to pay fines under GR 78/2015, and/or
6. deducts more than 50% of the employees' salary in each salary payment.

Administrative sanctions can be in the form of written warnings, limitation of business, temporary suspension of partial or entire production processes and suspension of business.

Governors should adjust the minimum salary to the decent living standard gradually within four years as of the issuance of GR 78/2015. Employers who have not prepared the salary structure and scale must prepare such salary structure and scale under GR 78/2015 and shall attach it in the application for legalization or renewal of Company Regulations and/or the registration, extension or renewal of Collective Labour Agreements within two years as of the issuance of GR 78/2015.