

Type: CIRCULAR LETTER (SE)

By: THE MINISTER OF MANPOWER AND TRANSMIGRATION REPUBLIC INDONESIA

Number: SE-13/MEN/SJ-HK/II/2005

Date: JANUARY 7, 2005 (JAKARTA)

Title: DECISION OF THE CONSTITUTIONAL COURT ON THE RIGHT TO TEST MATERIALLY THE LAW NUMBER 13 YEAR 2003 REGARDING MANPOWER AGAINST THE 1945 CONSTITUTION OF THE REPUBLIC OF INDONESIA

In relation to the Decision of the Constitutional Court Number 012/PUU-1/2003 dated October 28, 2004 regarding The Right to Test Materially the Law Number 13 Year 2003 regarding Manpower Against The 1945 Constitution of the Republic of Indonesia which has been promulgated in the State Gazette Number 92 Year 2004 dated November 17, 2004, to provide an explanation to the public, it is necessary to issue a Circular Letter as follows:

1. The Constitutional Court declares that Law Number 13 Year 2003 regarding Manpower particularly Article 158; Article 159; Article 160 paragraph (1) as long as it is related with the phrase "...not based on the complaint of the entrepreneur", Article 170 as long as it is related with the clause "...Article 158 (1) ..."; Article 171 as long as it is related with the clause "...Article 158 (1) ..."; Article 186 as long as it is related with the clause "...Article 137 and Article 138 (1)..." do not have the binding legal force.
2. In relation to the terms as stated in point 1, all Articles of Law Number 13 Year 2003 regarding Manpower which are declared not to have a binding legal force are deemed to have never existed and shall no longer be used as the basis/reference in the settlement of industrial relationships.
3. In relation with the terms as stated in the above point 1 and 2, the settlement of an employment termination case resulting from the serious negligence/violation of the worker/laborer shall observe the following:
 - a. the entrepreneur that terminates the employment for reasons that the workers/laborers have committed serious negligence (ex-article 158 paragraph (1), may carry out the termination of employment after there is a decision from the criminal court that has permanent legal force.
 - b. if the workers are detained by the authorities and the workers/laborers cannot carry out their duties as required the terms in Article 160 of Law Number 13 Year 2003 shall be applicable.
4. In the event there is an "urgent reason" which caused the work relationship not to continue any longer the entrepreneur may take the settlement effort through the industrial relationship dispute settlement agency.

Thus this Circular Letter is made for your information and to be utilized accordingly.

Stipulated in Jakarta
On January 07, 2005

THE MINISTER OF MANPOWER AND TRANSMIGRATION
OF THE REPUBLIC OF INDONESIA

sgd
FAHMI IDRIS

NOTE

Source: LOOSE-LEAF CIRCULAR LETTER OF THE MINISTER OF
MANPOWER AND TRANSMIGRATION YEAR 2005