

**THE DECREE OF
MINISTRY OF MANPOWER AND TRANSMIGRATION REPUBLIC OF
INDONESIA**

DECREE NO. 102/MEN/VI/2004
CONCERNING OVERTIME WORK HOURS AND OVERTIME PAY

**MINISTRY OF MANPOWER AND TRANSMIGRATION OF REPUBLIC OF
INDONESIA**

Considering a. that, in the implementation of Article 78 subsection (4) of Act No. 13 Year 2003 concerning Manpower Affairs, it is necessary to regulate the overtime work hours and overtime pay.

b. That it is necessary to draw up the Ministerial Decree for it.

In view of : 1. Act Number 1 Year 1951 concerning the Declaration of the Enactment of Employment Act Year 1948 Number 23 From the Republic of Indonesia For All Indonesia (State Gazette Year 1951 Number 4);

2. Act Number 22 Year 1999 concerning Residential Government Administration (State Gazette Year 1999 Number 60, Supplement to State Gazette Number 3839);

3. Act Number 13 Year 2003 concerning Manpower Affairs (State Gazette Year 2003 Number 39, Supplement to State Gazette Number 4279);

4. Government Regulation Number 25 Year 2000 concerning the Authority of Government and the Authority of Province as Autonomy Territory (State Gazette Year 2000 Number 54, Supplement to State Gazette Number 3952);

5. Presidential Decree of Republic Indonesia Number 228/M Year 2001 concerning Formation of 'Gotong Royong' Cabinet;

Observing 1. The Main Idea of Secretariat of National Tripartite Cooperation Institution on March 23, 2004;

2. Agreement of Plenary Meeting by National Tripartite Cooperation Institution on March 23, 2004;

DECIDE:

To Stipulate THE DECREE OF MINISTRY OF MANPOWER AND TRANSMIGRATION OF REPUBLIC OF INDONESIA CONCERNING OVERTIME WORK HOURS AND OVERTIME PAY

Article 1

Under this Ministerial Decree, the following definitions shall apply:

1. Overtime hours is the :
hours longer than 7 (seven) hours a day and 40 (forty) hours a week for 6 (six) work days per one week or 8 (eight) hours a day, and 40 (forty) hours a week for 5 (five) work days per one week or work hours during the weekly rest day or during the public holiday stipulated by Government.
2. The 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.
3. An enterprise is:
 - a. Every form of business, which is either a legal entity or not, which is 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 undertakings and other undertakings with officials in charge and which employ people by paying the wages or other forms of remuneration.
4. Manpower is every individual or person who is able to work in order to produce goods and/ or services either to fulfill his or her own needs or to fulfill the needs of the society.
5. A worker/laborer are any person who works and receives wages or other forms of remuneration.
6. 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 workers/ 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.
7. Minister is the minister responsible for manpower affairs.

Article 2

1. The provisions concerning the overtime working hours applies to any enterprise, except to enterprise with certain sector or certain work type.
2. The provisions concerning working hours for certain business sectors or certain types of work as mentioned under subsection (1) shall be regulated with a Ministerial Decree.

Article 3

1. Maximum overtime work of 3 (three) hours in a day and 14 (fourteen) hours in a week.
2. The provision concerning overtime working hours as mentioned in subsection (1) is apart from overtime work during weekly rest day or public holliday.

Article 4

1. Entrepreneurs who require their workers/ laborers to work overtime are under an obligation to pay overtime pay.
2. The workers/ laborers, positioned in certain position level, are not eligible for overtime pay as mentioned in subsection (1), in condition that they receive higher wage/ salary.
3. Those, positioned in certain position level as mentioned in subsection (2), are the worker who has function/ responsibility as intellectual, planner, executive, and controller of the enterprise's operation in which their work hours cannot be limited with the work hours regulated by the enterprise in accordance with prevailing provisions/ regulations.

Article 5

Overtime pay calculation is applicable to any enterprises, except to the enterprises in certain business or certain work type as mentioned in Article 2.

Article 6

1. In order to require the workers to work overtime, there shall be written instruction from the entrepreneur and written approval of relevant workers/ labourers.
2. Written instruction and written approval as mentioned in subsection (1) is possibly made in the list of workers/ labourers, who agree to work overtime, on which are signed by relevant workers and entrepreneur.
3. The entrepreneur, in accordance with subsection (2), shall arrange the list of overtime work implementation, mentioning the names of workers who work overtime and the duration/ time allocation of their overtime

Article 7

1. Entrepreneurs who require their workers/ laborers to work overtime under are under an obligation to:
 - a. Pay the overtime pay;
 - b. Allow their workers/ laborers to take a rest sufficiently.
 - c. Provide food and drink at the minimum of 1,400 Calories if the overtime work is conducted for 3 (three) hours or more.
2. Foods and drinks as mentioned in subsection (1) letter c shall not be replaced with money.

Article 8

1. Calculation of overtime pay is based on monthly wage/ salary.
2. Wage per one hour is $1/173 \times$ monthly wage.

Article 9

1. If the wage of worker is paid daily, then the calculation of monthly salary is daily wage x 25 (twenty five) for the workers/ labourers who work 6 (six) work days a week or the daily wage x 21 (twenty one) for the workers/ labourers who work 5 (five) work days a week.
2. If the wage is paid based on the unit of output, then the monthly wage is the averaged wage in the latest 12 (twelve) months.
3. If the workers/ labourers have worked less than 12 (twelve) months as mentioned in subsection (2), then the monthly wage shall be calculated based on the averaged wage during their service, in condition that it shall not be lower than local minimum wage.

Article 10

1. If the wage/ salary consists of basic salary and fixed allowance, then the overtime calculation is based on 100% (a hundred per a hundred) from wage/ salary.

2. In condition that the wage/ salary consists of basic salary, fixed allowance and variable allowance, if basic salary plus fixed allowance is still lower than 75% (Seventy Five Per One Hundred) from total wage/ salary, then the calculation of overtime pay is based on 75% (Seventy Five Per One Hundred) of the total wage/ salary.

Article 11

The calculation of overtime pay is as follow:

- a. If working over time during work days:
 - a.1. For the first overtime working hour, overtime pay up to 1.5 (One and a half) x wage per hour shall be paid.
 - a.2. For each next hour, overtime pay up to 2 (two) x wage per hour shall be paid.
- b. If working over time during weekly rest day and/ or official public holiday, for six (6) working days 40 (forty) hours a week, then:
 - b.1. For the first seven overtime hour, overtime pay up to 2 (two) x wage per hour shall be paid, and for eighth overtime hour, 3 (three) x wage per hour shall be paid and for 9th & 10 th overtime hour, 4 (four) x wage per hour shall be paid. b.2. If the official public holiday is on the shortest working day, in calculation, the overtime pay for the first 5 (five) hours shall be paid up to 2 (two) x wage per hour, 6 th overtime hour shall be paid up to 3 (three) x wage per hour and the 7 th and 8 th overtime hour shall be paid up to 4 (four) x wage per hour.
 - b.2. If working overtime during weekly rest day and/ or official public holiday, for five (5) working days 40 (forty) hours a week, then, the calculation of overtime pay for the 8 (eight) first hour shall be paid up to 2 (two) x wage per hour, the 9 th overtime hour shall be paid up to 3 (three) x wage per hour and the 10 th and 11 th shall be paid up to 4 (four) x wage per hour.

Article 12

For the enterprises which have implemented the calculation of overtime pay in which the value is better than calculation based on Ministerial Decree, consequently, the calculation of the overtime pay is still valid.

Article 13

1. If there is difference in the calculation on the amount of overtime pay, then the Residential/ City Manpower Supervision is authorized to set up the amount of overtime pay.
2. If one of the parties disagrees with the overtime pay amount decided by manpower Supervision as mentioned in the subsection (1), then they may propose the request to Manpower Supervision at Province to re-set up the amount of overtime pay.
3. If there is difference in calculation of overtime pay at the enterprise which is located in more than 1 (one) resident/ city of the same province, then the Provincial Manpower Supervision is authorized to decide the amount of overtime pay.

4. If one of the parties disagrees with the overtime pay amount decided by manpower Supervision as mentioned in the subsection (2) and subsection (3), then they may propose the request to Manpower Supervision at Department of Manpower and Transmigration to re-set up the amount of overtime pay.

Article 14

If there is difference in calculation of overtime pay at the enterprise which is located in more than 1 (one) province, then the Manpower Supervision of Department of Manpower and Transmigration is authorized to decide the amount of overtime pay.

Article 15

As the consequence in determining this Decree, the Decree of Minister of Manpower and Transmigration No. KEP-72/ MEN/1984 concerning the Principle of Overtime Pay Calculation, the Decree of Minister of Manpower and Transmigration No. KEP-608/MEN/1989 concerning the Permission of Work Hour Change and Break Hour for the Enterprises that Employs the Workers 9 (Nine) Hour a Day and 54 (Fifty Four) Hours a Week and the Regulation from Minister of Manpower of Republic of Indonesia No. PER/06/MEN/1993 concerning the Work Hours 5 (Five) Days a Week and 8 (Eight) Hours a Day, is thereby not valid/ effective anymore.

Article 16

This decree shall be effective upon the date of its promulgation.

Promulgated in Jakarta
On 25 th of June 2004
MINISTER OF MANPOWER AND
TRANSMIGRATION
REPUBLIC OF INDONESIA

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JACOB NUWA WEA