

LEGAL UPDATES: MINIMUM WAGES 2013



BETTER WORK
Indonesia

Dear Valued Partners,

We would like to inform you about the Minimum Wage Procedure based in Indonesia Law and how Better Work Indonesia sees this issue in our assessment.

a) Law Reference

Law No 13 Year 2013 about Labour
Presidential Decree No. 107 Year 2004 on Wage Council
Minister Decree no. 231 Year 2003 on Regulation on Minimum Wage Postponement
Minister Decree No. 49 Year 2004 on Wage Structure and Scale
Minister Regulation No. 1 Year 1999 jo Minister Decree no. 226 Year 2000 on Minimum Wage
Minister Regulation No. 13 Year 2012 about Component and Implementation of Phases to Achieve Decent Living Wage

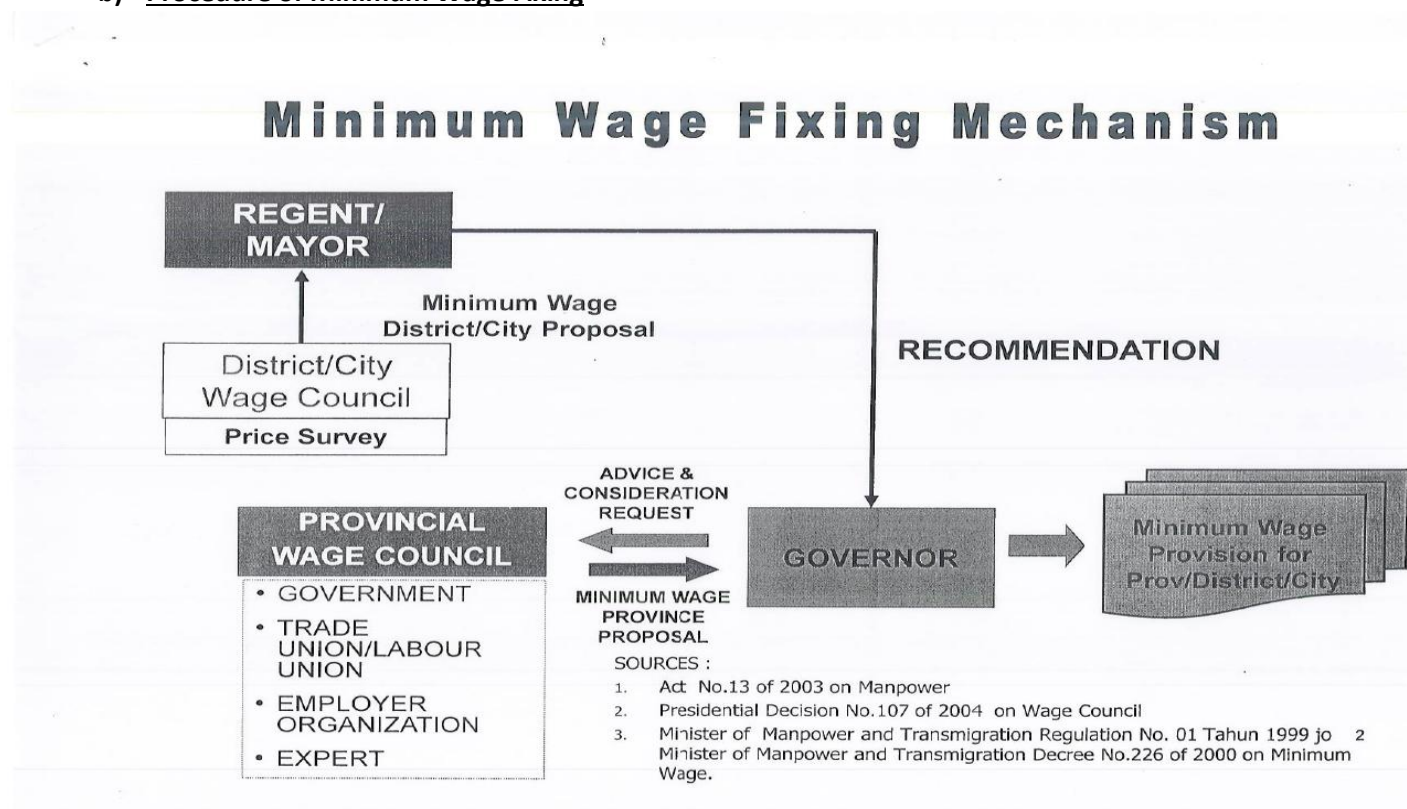
You can access these regulations in our website or government website

[Click here to go to Better Work Indonesia – Labour Law Guidelines](#)

[Click here to go to Ministry of Manpower and Transmigration website](#)

Please note that all regulations are provided in Bahasa Indonesia only.

b) Procedure of Minimum Wage Fixing



Source: Ministry of Manpower and Transmigration

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The minimum wage council readjust minimum wage in every year within institutional framework
(See Presidential Decree No. 107 Year 2004 on Wage Council)

The institutional framework is as follows:

- *National Wage Council (Depenas/DPN)*

Mandates/Duties (Article 4)

The Depenas duties is to provide suggestions and considerations to the central government in order to formulate wage policies and develop a national wage system

Membership/Composition (Article 6)

1. The membership of the Depenas consists of constituents'/representatives of the government. Employers' organization, trade unions/labour unions, universities and expert
2. The ratio of the constituents of the government, employers' organization, and the trade union/labour unions at the Depenas is 2:1:1
3. The number of Depenas' members from universities and experts shall be base on the needs
4. The number of Depenas member shall be odd number

- *Provincial Wage Council (Depeprov)*

Mandates/Duties (Article 21)

- a. To provide suggestions and considerations t Governor in order to:
 - a. Establish Provincial Minimum Wages (UMP)
 - b. Establish District/Municipal minimum Wages (UMK) and sector – based minimum wages (UMS)
 - c. Apply a wage at provincial level
- b. To prepare materials to formulate the development of the national wage system

Membership/Composition (Article 23)

1. The membership of the Depeprov consists of constituents of the Government, Employers' Organization, Trade Unions/Labour Unions, Universities, and Expert
2. The Ratio of the constituents of the Government Employers' Organization, and Trade Unions/Labour Unions at the Depeprov is 2:1:1
3. The number of the Depeprov' members from universities and experts shall be adjusted to need
4. The entire members of the Depeprov as referred to under subsection (1) shall be in odd numbers

- *District/Municipal Wage Council (Depekab/Depeko):*

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Mandates/duties (Article 38):

1. To provide suggestions and considerations to District Head/Mayor in order to:
 1. Propose District/Municipal Minimum Wages (UMK) and or Sector-based District/Municipal Minimum Wages (UMSK)
 2. To apply a wage system at district/municipal level
2. To prepare materials for the formulation of the development of a national wage system

Membership Composition

1. The membership of the Depekab/Depeko consists of constituents of the Government, Employer Organization, Trade Union/Labour Unions, Universities, and Expert
2. The Ratio of the constituents' of the Government, Employers' Organization, and the Trade Union/Labour Unions at the Depekab/Depeko is 2:1:1
3. The numbers of the Depekab/Depeko' members from universities and experts shall be adjusted to need
4. The entire members of the Depekab/Depeko as referred to under subsection (1) shall be in odd numbers

Postponement of Minimum Wage.

a. Is the postponement of Minimum Wage legal?

Yes. The procedure of postponement of minimum wage is regulated in Minister Decree No 231 Year 2003. Companies need to follow the procedure as described in the regulation to get the approval from government

What is the Procedure?

To get approval from Governor, a company needs to follow below steps:

- Negotiate with the Union or Workers Representative that represent more than 50% of the workers in the company.
- Have their past 2 year's financial statement audited by Public Accountant and submit the result to government
- Describe their past 2 year's production and marketing status and their plan for the next 2 years to the government
- Propose the number of workers that will have their minimum wage postponed and the period of postponement. Maximum is 12 months.

Governor may request for additional financial audit to be conducted to a certain company as necessary. The Governor will request for advice from Provincial Wage Council (Depeprov) on the

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postponement request from companies and then the Provincial Wage Council will provide recommendation to approve or to reject the proposal of minimum wage postponement and submit the recommendation to the Governor.

Can a company request to pay lower wage than the previous year's minimum wage, if it is agreed by workers?

No. The decree specifically provides 3 options that company can use for postponement of minimum wage proposal:

1. Company can pay their workers using the same amount with previous year's minimum wage
2. Company can pay their workers using a higher amount than the previous year's minimum wage, but lower than the current year's minimum wage
3. Company can increase their workers' wages gradually throughout the year

The decision from Governor will include the length of time use for postponement of minimum wage as proposed by the companies. It may last for only several months of the year or maximum 1 year depending on the proposal from companies and the recommendation from provincial wage council. Once this period expires, company needs to pay their workers using the new minimum wage

How long does it take to get the approval?

Maximum 1 month after submission to government

During the process of postponement application, how much should the company pay the workers?

The company needs to pay the workers using the same amount they use in the previous year

When the minimum wage postponement application are approved or rejected, how should the company react?

- When the request is approved, the regulation requires the company to use the new approved compensation starting from the first day of the new minimum wage applied. Thus the company will need to pay the balance of payment retroactively as needed.

For example:

Previous year's minimum wage is Rp. 1,500,000,-

New minimum wage amount is Rp. 2,000,000,- starting January 1st 2013

Proposed wage amount of minimum wage postponement is Rp. 1,800,000,-

Approval/Rejection of postponement from Governor released on March 1st, 2013

If the postponement proposal is approved:

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Company will need to pay the balance amount of Rp, 300,000 per month in January and February 2013.

So the total payment in March 2013 will be:

Rp, 1,800,000 (approved wage amount after postponement) + Rp. 300,000 (balance amount in January 2013) + Rp. 300,000 (balance amount in February 2013) = Rp. 2,400,000.

The amount of wages from April 2013 onwards will remain as Rp. 1,800,000 until the approval period is expired.

- When the request is rejected, the regulation requires the company to pay the workers as per the new minimum wage number from the first day of the new minimum wage applied. Thus the company will need to pay the balance of payment retroactively as needed.

For example:

Previous year's minimum wage is Rp. 1,500,000,-

New minimum wage amount is Rp. 2,000,000,- starting January 1st 2013

Proposed wage amount of minimum wage postponement is Rp. 1,800,000,-

Approval/Rejection of postponement from Governor released on March 1st, 2013

If the postponement proposal is rejected:

Company will need to pay the balance amount of Rp, 500,000 per month in January and February 2013.

So the total payment in March will be :

Rp, 2,000,000 (new minimum wage) + Rp. 500,000 (balance amount in January 2013) + Rp. 500,000 (balance amount in February 2013) = Rp. 3,000,000.

The amount of wages from April 2013 onwards will remain as Rp. 2,000,000 as per the minimum wage applied in that year.

Is there any legal approval Letter from Government? Where can I access the documentation?

The approval letter is released by Governor of each province in the form of Governor Decree. The companies that have received approval of minimum wage will be listed in the appendix of the decree along with the information of number of workers and period of approved postponement. You can access this information in our website

[Click here to view the website](#)

Please note that each province have different format of decree and the information is provided in Bahasa Indonesia. Please contact us should you need more detailed information on this. Please also note that up to now the Governor of DKI Jakarta has not released the

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approval of minimum wage postponement. We will update our website once this information is available.

b. How Better Work Indonesia assessments see this case?

Better Work teams assess the factories' compliance against National Law. Thus, when a factory has received a legal approval of postponement of minimum wage, the factory will be rated as Comply in the field of minimum wage, provided that all the terms and conditions as stated in the approval decree are applied in the factory, such as number of workers and period of suspension. The Better Work team will include the information of suspension in the report accordingly.

Q: My factory has received an approval for suspension of minimum payment from Local Manpower and Transmigration office. I thought the suspension should come from the Governor. Does my factory comply with the law? How Better Work Indonesia team sees this?

There is a Governor Regulation back in 2007 that allows this practice for companies that have less than 1,000 workers. However, since this practice is not in accordance with Law No. 13 Year 2003 Article 89 subsection (3) as well as Minister Regulation No. 1 Year 1999 and Minister Decree no. 226 Year 2000 on Minimum Wage, the Better Work Indonesia team will still rate the practice as non-compliance as per consultation with the Ministry of Manpower and Transmigration.

Please contact us if you are interested to get more updates on this specific issue.

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