

# Termination of Employment Under the Indonesian Manpower Law

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Termination of Employment is defined in Article 1 of Law Number 13 of 2003 on Manpower (the “**Manpower Law**”), which states as follows:

*“The termination of an employment is termination of employment relationship because of a certain thing that results in the coming of an end of the rights and obligations of the employee and the employer.”*

According to such definition, end of the rights and obligations of the worker is the consequences of the termination of the employment agreement between the employer and the employee. Article 61 paragraph (1) of the Manpower Law stipulates 4 (four) conditions which can terminate the employment agreement:

- a. The employee passes away;
- b. The employment agreement expires;
- c. A court decision or order of the institute for the settlement of industrial relation disputes which has permanent legal force; or
- d. There is a certain situation or incident prescribed in or violation against the employment agreement, the company regulations, or the collective work agreement which may effectively result in the termination of employment.

The condition in point d above is in line with the provision in Article 161 paragraph (1) of the Manpower Law and can be used as the reason to terminate employment. However, prior to terminating employment, the employer is required to issue 3 (three) warning letters to their employee.

The following are the steps to issue the warning letter according to the elucidation of Article 161 paragraph (1) of the Manpower Law:

- a. In case of the warning letter is issued consecutively then the first warning letter shall be effective for a period of 6 (six) months. If the employee commits a violation again against the provisions under the work agreement or company regulations or collective work agreement within the 6 (six) month period, the employer may issue the second warning letter, which shall also be effective for a period of 6 (six) months since the issuance of the second warning letter.
- b. If the employee keeps on violating the provisions under the work agreement or company regulations or collective work agreement, the employer may issue the third (last) warning, which shall be effective for 6 (six) months since the issuance of the third warning.

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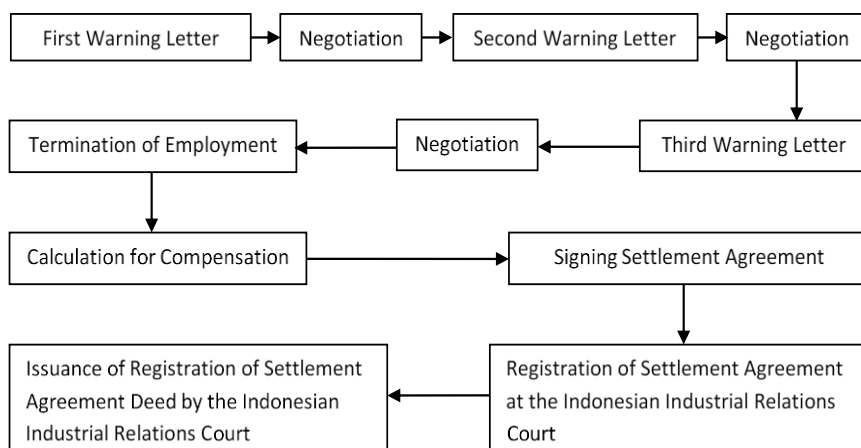
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- c. If within the effective period of the third warning, the employee once again violates the provisions under the work agreement or company regulations or collective work agreement, the employer may terminate employment.
- d. in the event that the six-month period since the issuance of the first warning letter is lapsed and the employee once again violates the employment agreement, company regulations or collective work agreement, then the warning letter issued by the employer shall once again be the first warning letter. The same shall also apply to the second and third warning.
- e. Work agreements or company regulations or collective work agreements may stipulate the issuance of first and last warning letter for certain types of violations. Thus, if the employee violates the work agreement or company regulations or collective work agreement within the effective period of the first and last warning letter, the employer may terminate the employee's employment.

Meanwhile, after the employer and the employee agree with the calculation of the payments and other matters (i.e. other rights and obligations which are specifically agreed upon between the employer and the employee in the employment agreement), then the employer and the employee should prepare the settlement agreement (*Perjanjian Bersama*) which will be signed by both parties.

Thereafter, the employer should register such settlement agreement along with the reason of the termination of employment to the Indonesian Industrial Relations Court (*Pengadilan Hubungan Industrial Indonesia*) to obtain the Registration of Settlement Agreement Deed (*Akta Pendaftaran Perjanjian Bersama*).

To simplify the above elaboration, we summarize the procedure of termination of employment as follows:



**T**ermination of employment can be conducted after issuing minimum three warning letters and be based on a settlement agreement which will be registered at the Indonesian Industrial Relations Court