

# **DISHARMONIZATION REGULATION ON THE USE OF FOREIGN WORKERS IN INDONESIA**

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## **ABSTRACT**

Disharmonization of regulations on the use of foreign workers occurs in Law Number 13 of 2003 concerning employment in Presidential Regulation, Minister of Employment Regulation, and Minister of Employment Decree. The problems of this research are: (1) Why is there a conflict of regulations regarding permission to employ foreign workers? (2) What is the legal certainty in regulating the use of foreign workers in Indonesia? (3) What is the effort to resolve conflict of regulations regarding the use of foreign workers in Indonesia? The type of this study a normative juridical. The approach taken is statute approach and historical approach. Results of the study: (1) Conflicts of regulations regarding permission for the use of foreign workers occur due to differences in substance between Law Number 13 of 2003 concerning employment in Presidential Regulation, Minister of Employment Regulation, and Minister of Employment Decree, which regulate foreign workers. (2) Conflicts in the regulations lead to legal uncertainty which results in conflicting norms in regulating the use of foreign workers. (3) Settlement efforts can be made by testing the material to the Supreme Court, applying the principles of law, and changing the substance of the conflicting articles.

Keywords : Disharmonization, Regulations, License, and Foreign Workers

# **DISHARMONISASI REGULASI PENGGUNAAN TENAGA KERJA ASING DI INDONESIA**

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## **ABSTRAK**

Disharmonisasi pengaturan penggunaan tenaga kerja asing terjadi antara Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan dengan Peraturan Presiden, Peraturan Menteri Ketenagakerjaan, dan Keputusan Menteri Ketenagakerjaan. Permasalahan penelitian ini adalah: (1) Mengapa terjadi pertentangan pengaturan mengenai izin mempekerjakan tenaga kerja asing? (2) Bagaimanakah kepastian hukum pengaturan penggunaan tenaga kerja asing di Indonesia? (3) Bagaimanakah upaya penyelesaian pertentangan pengaturan penggunaan tenaga kerja asing di Indonesia? Jenis penelitian ini adalah yuridis normatif. Metode pendekatan yang dilakukan adalah pendekatan undang-undang dan pendekatan sejarah. Hasil penelitian: (1) Pertentangan pengaturan mengenai izin penggunaan tenaga kerja asing terjadi karena perbedaan substansi antara Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan dengan Peraturan Presiden, Peraturan Menteri Ketenagakerjaan, dan Keputusan Menteri Ketenagakerjaan yang mengatur tenaga kerja asing. (2) Pertentangan pengaturan menyebabkan ketidakpastian hukum yang menimbulkan konflik norma dalam pengaturan penggunaan tenaga kerja asing. (3) Upaya penyelesaian dapat dilakukan dengan pengujian materil ke Mahkamah Agung, menerapkan asas hukum, dan mengubah substansi pasal yang bertentangan.

**Kata Kunci:** Disharmonisasi, Regulasi, Perizinan, dan Tenaga Kerja Asing