



Asosiasi Ibu Menyusui Indonesia



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LAW AND REGULATIONS ON BREASTFEEDING



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1945 CONSTITUTION

Article 27, Paragraph (2)

Every citizen shall have the right to work and to earn a humane livelihood.

Article 28B, Paragraph (2)

Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination.

UU Substitute GOVERNMENT REGULATION

Law No. 49 of 1999 on Human Rights

Article 49, Paragraph (2):

Women are entitled to special protection in the undertaking of work or a profession that can threaten their safety and/or reproductive health.

Explanations:

“Special protection of reproductive health” refers to health care that is related to a woman’s reproductive function, such as menstruation, pregnancy, childbirth and providing the opportunity to breastfeed children.

Act No. 13 of 2003 concerning Manpower

Article 82, Paragraph (1):

Female workers/labourers are entitled to a 1.5 (one-and-a-half) month’s period of rest before the time at which they are estimated by an obstetrician or a midwife to give birth to a baby and another 1.5 (one-and-a-half) month’s period of rest thereafter.

Article 82, Paragraph (2):

A female worker/ labourer who has a miscarriage is entitled to a period of rest of 1.5 (one-and-a-half) months or a period of rest as stated in the medical statement issued by the obstetrician or midwife.

Article 83 :

Entrepreneurs are under an obligation to provide proper opportunities to female workers/ labourers whose babies still need breastfeeding to breastfeed their babies if that must be performed during working hours.

Explanations:

What is meant by “providing proper opportunities to female workers/labourers to breastfeed their babies during working hours” are periods of time provided by the enterprise to the female workers/labourers to breastfeed their babies, by taking into account the availability of a place/room that can be used for such a purpose according to the enterprise’s conditions and financial ability, which shall be regulated in the company regulations or collective labour agreements.

Health Law No. 36/2009

Article 128 :

- (1) Every child has the right to receive breast milk exclusively from birth for a minimum of 6 (six) months, unless there is a medical indication to the contrary.
- (2) During the breastfeeding period, the family, the Government, the Local Government and the community must give full support to the mother’s infant by providing time and special facilities.
- (3) Provision of specialised facilities as referred to in paragraph (2) shall be implemented in the workplace and in public facilities.

Explanations:

1. The meaning of “every child has the right to receive breast milk exclusively” is giving a child only breast milk for a minimum of 6 (six) months, with a possibility of continuing until the age of 2 (two) years together with complementary foods. What is meant by “medical indication” is when a health professional indicates that a mother is not in a healthy enough condition to provide breast milk.

2 and 3: Require no further explanation.

Article 129 :

- (1) The Government shall be responsible for stipulating policies in order to guarantee the rights of infants to be exclusively breastfed.
- (2) Further provisions as referred to in paragraph (1) shall be governed by Government Regulations.

Explanations:

1. The term “policies” in this provision means setting norms, standards, procedures and criteria.
2. No further explanation required.

Article 200 :

Any person who intentionally hinders exclusive breastfeeding programmes as referred to in Article 128 paragraph (2) shall be sentenced to a term of imprisonment (maximum 1 year) and/or to a fine (maximum amount of Rp. 100,000,000.00; One hundred million Rupiah)

Article 201 (1) :

- (1) In the case that criminal acts are committed by a corporation as referred to in Article 190 paragraph (1), Article 191, Article 192, Article 196, Article 197, Article 198, Article 199, and/or Article 200, in addition to imprisonment and fines against management, a penalty can be imposed on the corporation in the form of a fine, 3 (three) times as severe as the fine referred to in Article 190 paragraph (1), Article 191, Article 192, Article 196, Article 197, Article 198, Article 199 and Article 200.
- (2) In addition to criminal penalties as described in paragraph (1), the corporation may also be penalised in the form of a :
 - a. Revocation of business permit; and/or
 - b. Revocation of status as a legal entity.

Explanations: No further explanations required.

GOVERNMENT REGULATIONS

PP. 24/1976 on Civil Servant Leave

Article 15 :

- (1) Female civil servants who miscarry are entitled to sick leave for a maximum period of 1.5 (one-and-a-half) months.
- (2) In order to obtain sick leave as referred to in paragraph (1), female civil servants must submit a written request, together with a medical record from a doctor or midwife, to the authorisation officer.

Article 19 :

- (1) For the birth of the first, second and third child, female civil servants are entitled to maternity leave.
- (2) For the birth of the fourth child and any other children thereafter, female civil servants are entitled to leave without pay.
- (3) Duration of maternity leave as referred to in paragraphs (1) and (2) is 1 (one) month before and 2 (two) months after birth.

Article 21 :

During maternity leave, female civil servants are entitled to full remuneration.

Government Regulation 33/2012 on Granting Exclusive Breastfeeding

Objectives (Article 2):

- Guarantee the child's right to be exclusively breastfed from birth to 6 (six) months.
- Protect mothers who breastfeed their babies exclusively.
- Enhance the role and support that the family, society, local government and Government provide to exclusive breastfeeding.

Workplace and Public Facilities

Article 30 :

Paragraphs 1 and 2 :

Workplace and Public Facilities must support exclusive breastfeeding in accordance with company regulations that govern relations between employers and workers or through agreements between union workers and employers (otherwise, as stipulated in Article 36, criminal sanctions are to be imposed in accordance with Health Law Article 200/201).

Paragraph 3 :

Workplace and Public Facilities must provide special facilities for breastfeeding and/or expressing breast milk, in accordance with the conditions and capacity of the enterprise (otherwise, as stipulated in Article 36, criminal sanctions are to be imposed in accordance with Health Law Article 200/201).

Article 31 :

A “workplace” encompasses a company and government offices, local government and the private sector.

Explanation: Office includes prisons.

Article 32 :

“Public facilities” include health facilities, hotels, inns or guest houses (lodging), recreational places, transportation terminals, train stations, airports, seaports, shopping centres, sports centres, refugee shelters and any other public facilities.

Article 33 :

Health facilities must support exclusive breastfeeding, based on the “10 (ten) Steps to Successful Breastfeeding”.

Article 34 :

The management/executive board of a workplace shall provide opportunities for working mothers to breastfeed or express their breast milk during working hours at the workplace (otherwise, as stipulated in Article 36, criminal sanctions are to be imposed in accordance with Health Law Article 200/201).

Article 35 :

The management/executive board of a workplace and the administrator of a public facility shall introduce internal regulations that support successful exclusive breastfeeding programmes

Minister of Health Decree 2004 No 450/MENKES/SK/VI/2004 on Exclusive Breastfeeding in Indonesia

- To endorse exclusive breastfeeding in Indonesia for 6 (six) months, with a possibility of continuing until the age of 2 (two) years together with complementary foods.
- Health care staff must inform all mothers who have just given birth to breastfeed their infants exclusively with reference to the “10 (ten) Steps to Successful Breastfeeding”, as follows:
 - a. Every facility that provides maternity services and care must have a written breastfeeding policy that is routinely communicated to all health care staff.
 - b. Conduct training for all health care staff in skills necessary to implement this policy.
 - c. Inform all pregnant women about the benefits and management of breastfeeding, starting from the pregnancy period, to the child’s birth and up to 2 years of age, including how to overcome the difficulties of breastfeeding.
 - d. Help mothers initiate breastfeeding within half an hour of birth in the delivery room. If a mother has a Caesarean section, the child can breastfeed half an hour after the mother regains consciousness.
 - e. Show mothers how to breastfeed and how to continue expressing milk in cases where mothers must be separated from their infants due to medical conditions.
 - f. Do not give new born infants any food or drink other than breast milk, unless medically advised otherwise.
 - g. Practice “rooming-in” – i.e.: allowing mothers and infants to remain together 24 hours a day.
 - h. Encourage breastfeeding on demand.
 - i. Give no artificial teats or pacifiers (also known as dummies or soothers) to breastfeeding infants.
 - j. Encourage the establishment of breastfeeding support groups and refer mothers to these groups upon discharge from the hospital or clinic.

Joint Regulations of 3 Ministers (Minister of Empowerment of Women and Child Protection, Minister of Manpower and Transmigration and Minister of Health) (No.48/MEN.PP/XII/2008, PER.27/MEN/XII/2008 and 1177/MENKES/PB/XII/2008) on Allowing Mothers to Express Breast Milk during Working Hours in the Workplace

Article 2:

The objective of this joint regulation:

- Provide an opportunity for female workers/labourers to express breast milk during working hours and to store the expressed breast milk for an infant’s later use.
- To fulfil the rights of female workers/labourers to improve the mother’s and the child’s health.
- To fulfil the child’s right to obtain breast milk in order to gain appropriate nutrition and to build a strong immune system.
- To improve the quality of human resources at an early stage.

Article 3 :

Obligations and Responsibilities

- (1) The Minister of Empowerment of Women and Child Protection is responsible for:
 - a. Providing knowledge and understanding to female workers/labourers on the importance of breastfeeding for child development and the health of the working mother.
 - b. Informing employers or management at the workplace on the conditions required to give female workers/labourers the opportunity to express their breast milk during working hours at the workplace.
- (2) The Minister of Manpower and Transmigration is responsible for:
 - a. Encouraging employers/trade unions/labour unions to regulate procedures for breastfeeding in the company regulations or collective labour agreements, with reference to Indonesian labour laws.
 - b. Coordinating the socialisation of workplace breastfeeding.
- (3) The Minister of Health is responsible for:
 - a. Conducting training and providing well trained staff in breastfeeding.
 - b. Providing and disseminating all types of communication material, information and educational material on the benefits of expressing breast milk.

Ministry of Health's Letter No. 872/menkes/XI/2006 on Criteria and Facilities of Nursing Room

TYPE 1

1. Room 3,5 x 5 meters
2. Room facilities:
 - a. Closed area with curtains and door that can be locked
 - b. Chair for mother to breastfeed/for counselling purposes
 - c. Sofa for mother to breastfeed
 - d. Table for changing baby clothes, nappies, etc.
 - e. Sink with clean water for washing hands
 - f. Poster with guidance on latch-on position and the benefits of breast milk
 - g. Cot for babies that need to sleep/rest
 - h. Locker/closed cabinet for baby kits
 - i. Notebook to record mothers who use the nursing room
 - j. Room ID
 - k. Management staff
 - l. Cleaning staff
3. Wall colour: white/light blue/light yellow

TYPE 3

1. Room 2 x 1,5 meters
2. Room Facilities:
 - a. Closed area with curtains and door that can be locked
 - b. Chair for mother to breastfeed/for counselling purposes
 - c. Baby bed for changing baby clothes, nappies, etc.
 - d. Sink with clean water for washing hands
 - e. Flipchart/poster with guidance on latch-on position and the benefits of breast milk
 - f. Notebook to record mothers who use the nursing room
 - g. Room ID
 - h. Management staff
 - i. Cleaning staff
3. Wall colour: White/light blue/light yellow

TYPE 2

1. Room 2,5 x 2,5 meters
2. Room Facilities:
 - a. Closed area with curtains and door that can be locked
 - b. Chair for mother to breastfeed/for counselling purposes
 - c. Table for changing baby clothes, nappies, etc.
 - d. Sink with clean water for washing hands
 - e. Poster with guidance on latch-on position and the benefits of breast milk
 - f. Refrigerator for storing expressed breast milk
 - g. Notebook to record mothers who use the nursing room
 - h. Bookshelves to store all material and books about breastfeeding
 - i. Room ID
 - j. Management staff
3. Wall colour: white/light blue/light yellow

TYPE 4

1. Room 2,5 x 2 meters
2. Room Facilities:
 - a. Closed area with curtains and door that can be locked
 - b. Chair for mother to breastfeed/for counselling purposes
 - c. Table for changing baby clothes, nappies, etc.
 - d. Sink with clean water for washing hands
 - e. Poster with guidance on latch-on position and the benefits of breast milk
 - f. Notebook to record mothers who use the nursing room
 - g. Room ID
 - h. Management staff
 - i. Cleaning staff
3. Wall colour: white/light blue/light yellow

Other conditions :

- Promotion of formulas and other similar products is strictly prohibited
- Must be a non-smoking area
- Pets are not allowed in the nursing room