

ACTIO

ISSUE #11 / AUGUST 2019

Government Action on How to Increase Indonesian Human Resources Competence

Criminal and Civil Claims to Default Building Owners

K3 Management System in the Implementation of Public Works Construction in Indonesia



Indonesian Infrastructure:

**Indonesia
Emas 2045**





We, Akasa Cipta Tama (ACT), was established in April 2015 as a response to the demand of highly qualified translators for business, legal, technical, and general documents; as well as interpreters and note takers for meetings, seminars, and conference. Our translators, interpreters and note takers have extensive experiences in their respective fields.

With a comprehensive database of qualified human resources, ACT works to ensure the best results in every project we run. Some of our top personnel have worked for various international events and some of our clients include the Office of the President of the Republic of Indonesia, People's Consultative Assembly, The United Nations, The World Bank, AusAID, USAID, and some prominent law firms in Indonesia.



Please do not hesitate to contact us if you have any question at marketing.akasa@gmail.com.
Looking forward to hearing from you.



TABLE OF CONTENT

FOREWORD	3
INFO	4
ANALYSIS: The Implementation of Green Building Certification	5
QUESTION & ANSWER	6
IN-DEPTH LOOK: A Government Effort to Increase the Competence of Indonesian Human Resources	7
OPINION: Owner’s Responsibilities for the Safety of the Building	8
IN-DEPTH LOOK: The Implementation of Occupational Safety and Health Management Systems in Public Works Construction in Indonesia	10
TIPS: Obtaining Certification of Green Building ...	12

ACTIO

Editorial:

Supervisor:

Setyawati Fitri Anggraeni, S.H., LL.M.,FCI Arb., FAADR.

Editor-in-chief:

Imelda Napitupulu, S.H., M.H.

Executive Director:

M. Adhima Djawahir, S.H.

Writers:

Dr. Hary Elias, BA Hons (Cantab), LL.M (1st Class Hons), MBA (Columbia), Juris Doctor

Keshia Bucha, S.H.

Wenny Novia, S.H.

David Gayus El Harun Marpaung, S.H., MKn.

Sechabudin, S.H.

Ronaldo Kirby Tapon, S.H., LL.M.

Yoga Adi Nugraha, S.H.

Agustin Lamasi Hasoloan Hutabarat, S.H.

Media Consultant:

Fifi Juliana Jelita

Script Editor:

Wahyu Hardjanto

Visual Stylist:

Riesma Pawestri

Illustration: **freepik.com**

Axio Magazine is published every four months, made and distributed by:



Disclaimer:

It is important for us to clarify that any analysis, opinion or information in Actio is a personal contribution of the partners and/or associates of Anggraeni and Partners law firm and is a common knowledge of law. Such analysis, opinion or information in Actio is not intended to serve as the legal opinion or view of Anggraeni and Partners law firm about certain legal issues.

The analysis, opinion or information in Actio cannot be interpreted as an indication or suggestion for a future circumstance. The analysis, opinion or information in Actio is not offered as legal opinion or legal advice for any certain matter. No reader may consider that they have to act or refrain from acting or choose to act in regard of a certain issue based on the analysis, opinion or information in Actio without first seeking consultation from professionals at law in accordance with the specific facts and circumstances encountered.

“To be a great nation and a great people, you have to do great things.”

- Homer Hickam

INDONESIA MAJU!

Indonesia Maju (Indonesia Onward). It’s the shared vision of this nation which was highlighted by President Joko Widodo during his speech on the occasion of the Indonesia’s 74th Independence Day.

A nation will be regarded as a developed nation when it has inter alia good economic growth, high quality education and appropriate infrastructures. President Joko Widodo emphasized that, “Infrastructure is the key factor to become a developed nation. Without well developed infrastructures, Indonesia will fall even further behind the other nations in this world.”

Inspired by the aspiration of President Joko Widodo, the August 2019 edition ACTIO will discuss infrastructures; including a discussion about developments that have been conducted in the last 5 (five) years and also regulations concerning more eco- friendly buildings. ACTIO will also discuss government efforts to develop superior Indonesian human resources. Superior human resources are essential because infrastructures alone are not enough to carry Indonesia into a developed nation status.

We hope the readers will obtain new knowledge and will be moved to develop their capacities as Indonesian Human Resources in order to accomplish these lofty and noble goals.

Warm regards and happy reading,
Setyawati Fitri A, S.H., LL.M., FCI Arb., FAADR.

THE GOVERNMENT PREPARES A PERSONAL DATA PROTECTION BILL

The Indonesian Telecommunications Regulatory Agency (BRTI) confirmed that the practice of buying and selling personal data is an unlawful act, which could be punishable by imprisonment and fines. At present, the Ministry of Communication and Information (KOMINFO) has completed a draft of the Personal Data Protection Bill. This BRTI statement came after the mass media coverage of the sale and purchase of personal data on e-commerce platforms. At present, there are around 30 regulations governing data protection, relating to human rights, defense, security, health, population administration, finance and banking, trade, industry, and telecommunications. As a step to strengthen the protection of personal data, KOMINFO initiated the Personal Data Protection Bill.

The Draft Bill on Personal Data Protection defines sensitive data, that is personal data that requires special protection, consisting of data relating to religion/beliefs, health, physical and mental



conditions, sexual life, personal financial data, and other personal data. Currently the Personal Data Protection Bill is being reviewed in the State Secretariat and will be submitted to the DPR for further discussion for immediate ratification. **YAN**

Source: <https://tekno.tempo.co/read/1206522/pemerintah-siapkan-ruu-perlindungan-data-pribadi/full&view=ok> with changes.

DRAFT OF THE PERSONAL DATA PROTECTION BILL HAS BEEN SIGNED BY THE MINISTER OF COMMUNICATION AND INFORMATION

The Ministry of Communication and Information (KOMINFO) stated that the draft of the Personal Data Protection Bill has been signed by the Minister of Communication and Information Technology (MENKOMINFO), Rudiantara, and is being circulated to related institutions. Rudiantara said the Personal Data Protection Bill would be sent back to the House of Representatives (DPR) for discussion after being signed by the Minister. The Ombudsman of the Republic of Indonesia previously stated the pressing need for the Law on Protection of Personal Data and Privacy. The Ombudsman considered this urgency in response to the policy of the Directorate General of Population and Civil Registration (DUKCAPIL) of the Ministry of Home Affairs, which has recently established cooperation in utilizing access to population data with private companies.

In the latest update, DUKCAPIL established an initiative with the finance companies of the Astra Group. The Astra Group includes PT Astra Multi Finance (AMF) and PT Federal International Finance (FIF). DUKCAPIL's cooperation with FIF has been conducted since 2017 and was extended on July 16, 2019. AMF, meanwhile, established cooperation with DUKCAPIL for the first time this year. In this collaboration, the Astra Group has access to the Population Registration Number (NIK), Population Data and Identity Card, which is used to support their financing services. **YAN**

Source: <https://nasional.tempo.co/read/1226955/ruu-perlindungan-data-pribadi-telah-ditandatangani-menkominfo/full&view=ok> with changes.



THE IMPLEMENTATION OF GREEN BUILDING CERTIFICATION

In an effort to reduce greenhouse gas emissions, the Minister of Public Works and Public Housing issued Ministerial Regulation No. 02/PRT/M/2015 Year 2015 concerning Green Building and Circular Letter No. 86/SE/DC/2016 concerning Technical Guidelines for the Implementation of Green Building ("Green Building Regulations") as a guide to the implementation of green building.

Green Building Regulations classify building into two categories, namely Green Building and Community Green Housing (H2M). A Green Building is a building that meets building requirements and has significant measurable impact in saving energy, water, and other resources through the implementation of green building principles in accordance with the functions and classifications in every step of its implementation. Buildings which comply with green building requirements include both the new established building and building that has been utilized, in which implementation can be: (i) mandatory, (ii) recommended, or (iii) voluntary in accordance with the qualification of the relevant building.

Organizers of green building are defined to include the central government, regency/city government, provincial government in the case for DKI Jakarta area, owners, users, and/or building managers, construction service providers, and green building experts. The implementation of green building includes the stages of programming, technical planning, execution of construction, utilization, and demolition.

The regent/mayor will grant green building certificate and placard to the owner/manager of a building after obtaining a recommendation from the Green Building Expert Team. This certificate is valid for a period of 5 (five) years. The green building certificate and placard is recognition for the organizers of their compliance with green building principles and can be recognition for various tasks including technical planning, construction, utilization and demolition

of the building. For DKI Jakarta area, the green building certificate is issued by the governor.

The green building certificate may be issued for various aspects of the construction of the building. These stages include:

(i) at the technical planning stage, where the certificate is awarded together with the issuance of a Building Construction Permit (IMB), (ii) at the construction stage, where the certificate is issued together with the issuance of the Certificate of Building Proper Function (SLF), (iii) at the utilization stage, where the certificate is awarded with the issuance of the extension of SLF, and finally; (iv) at the demolition stage, where the certificate is given together with approval of the demolition technical plan.

Green building certificates are awarded based on the performance of the green building and subject to the following categories:

1. primary green building;
2. secondary green building; and
3. small green building.

Regency/city government or provincial government of DKI Jakarta (specifically for DKI Jakarta area), provide incentives to owner and/or manager of green building, in the form of:

1. a facility on licensing levies and services;
2. compensation in the form of licensing facility and/or additional building floor coefficients;
3. technical and/or expertise support including, inter alia, technical advice and/or green building expert support for the pilot project;
4. award in the form of certificate, placard, and/or certificate of appreciation; and/or
5. other incentives in the form of publication and/or promotion.

It is hoped that the certification program will persuade owners, managers, developers and all other stakeholders to implement and consider more environmentally friendly practices in the future. **SCN**

Q: What infrastructure developments have been carried out by the Government in the 2014-2019 period?

A: Infrastructure built by the government in the 2014-2019 period had a connectivity purpose and infrastructure developments included 3,432 kilometers of roads, 947 kilometers of toll roads, 39.8 kilometers of bridges and 134 units of suspension bridges throughout Indonesia. This excludes the Railroad Light Rail Transit railroad in South Sumatra and light Rail Transit in Jakarta. A total of 10 (ten) airports have been completed throughout Indonesia and 19 (nineteen) seaports.

In addition to connectivity, the government is also building infrastructure to support food security. The goal is to increase the availability of food sourced from increased domestic production. Infrastructure



development in this sector include the construction of 55 (fifty-five) dams that were built that have an impact on improving reservoir irrigation services by 160,000 hectares. In addition, the impact on meeting raw water requirements increased to 3.02 cubic meters per second and an increasing energy potential by 145 megawatts.

Telecommunications Infrastructure was done by expanding network and telecommunications coverage. One project to support the mission is the national fiber optic backbone network called "Palapa Ring". The program connects all regency / city capitals in Indonesia using a broadband network (high-speed internet).

Q: Planned Development of supporting infrastructure by the Government in the period 2019-2024.

A: For development plans in the period 2019-2024 the government is more focused on improving the quality of human resources. We can see this in the theme of the 74th Birthday of the Republic of Indonesia, namely "Superior Human Resources, Developed Indonesia". Although infrastructure is still considered an important factor for the welfare of its people, the government believes that it must be supported by improving the quality of human resources. In turn, improving the quality of human resources can only be achieved by improving education to run these technological advances.

The urgency of human resource development is a key factor in winning global competition, and because of intense competition amid uncertainty, this strategic step should receive full support from all layers of stakeholders in the government. Human resource development is a challenge for the Indonesian people when looking at data released by the World Bank, where in 2018, the World Bank stated that the quality of Indonesian human resources was ranked 87 out of 157 countries. Meanwhile, in the same year, Business World reported

that human resources of Indonesia competitiveness ranked 45th out of 63 countries. This ranking is still less than the two neighboring countries, namely Singapore and Malaysia, which are respectively ranked 13th and 22nd.

Strengthening human resources and building a competitive work force has a close correlation with increased work productivity, in winning competition amid rapid changes in the world of business, the political economy and culture. We should be grateful that the current government has succeeded in building the foundation required to lead Indonesia to excel, its indicators are reflected in the massive development of infrastructure that can be a steppingstone in advancing human development.

The current commitment of the Government to strengthen human resources is reflected in the increasing budget allocation for the development of human quality. This increased funding can be seen in education, health, and social protection. In the 2018 state budget, the budget for education was already IDR 147.56 trillion, IDR 65.01 trillion health, and IDR 162.56 trillion in social protection and continues to increase until now.

With the commitment of the current administration to the development of human resources, it now falls on the various ministries and government agencies to implement programs and policies that are in line with the great vision of human resource development. **DGM**

A GOVERNMENT EFFORT TO INCREASE THE COMPETENCE OF INDONESIAN HUMAN RESOURCES

The Fourth Industrial Revolution presents challenges in various fields, as well as in the employment sector. Improved technological systems, internet networks and artificial intelligence on one side created several new employment sectors. But on the other hand, it should also be noted that several jobs have been taken over by technology. At this moment, skills and competencies of Human Resources (“HR”) play a very important role, especially in ensuring that Indonesia can compete economically.



Unfortunately, the development of technology and artificial intelligence does not appear to be directly proportional to the readiness of Indonesia’s human resources. If we refer to the 2017 Indonesian Labor Report issued by the International Labor Organization in 2017 (“ILO 2017 Report”), there are various skills mismatches that need to be addressed. According to the ILO (2014), skills mismatch means various forms of imbalance between available skills and skills needed in the world of work. In this regard, ILO 2017 Report provides recommendations which identify new skills which human resources need to master. Our human resources need to master new skills to prevent them losing their job due to their inability to adapt to technological developments.

In addition, the existing regulatory instruments have not specifically regulated the quality standards of human resources that must be achieved to face the Fourth Industrial Revolution. Therefore, the government and related ministries need to conduct various efforts to face the challenges posed by these technological developments. One of the ways to improve human resource competency can be done through an institution formed by President Joko Widodo vide Presidential Regulation Number 69 of 2018 concerning changes to the Presidential Regulation number 29 of 2015 concerning the Ministry of Industry (“Presidential Regulation No. 69/2018”). In Presidential Regulation No. 69/2018, there was an addition to the function of the Ministry of Industry, as stipulated in Article 3 paragraph d1,

namely that the Ministry of Industry also performed the function of implementing HR development in industry.

To support this function, the government formed a new body under the Ministry of Industry, which is the Industrial Human Resources Development Agency.

The Industrial Human Resources Development Agency is on the echelon I level within the Ministry of Industry. Previously, the tasks and functions of the Industrial Human Resources Development Agency were conducted by a work unit of the Center for Industrial Education and Training led by echelon II officials. Thus, the Industrial Human Resources Development Agency that reports directly to the Minister of Industry will have heavier tasks and functions to formulate and implement technical policies that have a direct impact on improving human resources in Indonesia.

These tasks and functions include (i) technical policies formulation and the implementation of industrial HR development; (ii) conduct monitoring, evaluation, and reporting on the implementation of tasks in the field of industrial HR development, (iii) administrating the Industrial HR Development Agency, and perform other functions assigned by the Minister of Industry.

According to current labor conditions, human resource needs to be developed through several steps, namely: (i) Building cooperation with other relevant ministries, such as the Ministry of Manpower and the Ministry of Research, Technology and Higher Education, also with entrepreneurs, to map the skills sectors that need to be improved by current Indonesian HR; (ii) Establishing educational programs starting from vocational and undergraduate levels which match industry requirements.

The implementation of these two stages may not show a real impact in the short term given that human resource development is a long-term investment. However, this step in forming the Industrial Human Resources Development Agency is a good first step to focus government policy on Indonesia’s HR development goals. **KBA**

OWNER'S RESPONSIBILITIES FOR THE SAFETY OF THE BUILDING



On January 15, 2018, Jakarta Stock Xchange (IDX Building) hallway collapsed, and resulted in 72 injuries. Before that, the same case also occurred in 2008, where the pillars of the West Jakarta District Court collapsed and killed 1 lawyer and injured 3 other lawyers.

The collapse of a building is generally caused by natural events such as earthquakes or whirlwinds. But in the two cases above, there is no natural element that causes damage to buildings, so it cannot be said to be a force majeure event. Therefore, such cases are entirely due to human error, both by the owner and/or building management.

It would be very dangerous if public buildings such as office centers, shopping centers or government buildings are not safe in terms of structure or building feasibility. Moreover, these buildings are visited by many people. Such things should be anticipated and predicted by the owner when the development plan is implemented.

By law, the government has issued Law No. 28 of 2002 on Building. As mandated by Article 37 of the Building Law, the construction of a building must meet the requirements of a functional society. In addition, Article 37 was also bearing liability for the owners undertake the periodic maintenances to meet the eligibility requirements of the building. So, if a building is damaged without natural disasters even though the age of the building is not too old, then it becomes a question how the feasibility and safety of the building?

If this happens, it can be ascertained the alleged violation of the term's airworthiness buildings.

Furthermore, the provisions of Article 41 paragraph (2) Building Act regulates the responsibility of the owner of the building. Responsibilities included:

- a. utilizes buildings in accordance with their functions;
- b. maintains and / or caring for the building on a regular basis;
- c. complete guidelines / instructions for the implementation of building utilization and maintenance;
- d. Implement the periodic checks on the appropriateness of building functions.
- e. repairing buildings that have been determined to be inappropriate in function;
- f. dismantles buildings that have been set are not eligible to function and cannot be repaired, it can pose a hazard in use, or do not have a building permit, with no threat to public order.

In addition, as mandated by Government Regulation Number 36 of 2005 Concerning the Implementation of Building Laws jo. Regulation of the Minister of Public Works of the Republic of Indonesia Number 25 / PRT / M / 2007 of 2007 concerning Guidelines for Appropriateness of Building Functions, every building must be certified for a building, both private and government agencies. This certification aims to realize buildings that are always reliable and meet the administrative and technical requirements of buildings according to their functions, in order to realize functional buildings, in accordance with building arrangements that are harmonious and in harmony with their environment, which are organized in an orderly manner to ensure the technical reliability of buildings building, as well as the realization of legal certainty in the implementation of building construction as mandated by Article 2 paragraph (2) of the Ministerial Regulation.

But, in reality not all building owners obey the rules above, the proof of events such as the example above cases still often occur. And the government itself lacks firmness in enforcing these rules. However, if from the beginning everything meets the requirements as stipulated in the laws and regulations below, then the buildings will be safe for the community and of course similar events can be prevented and there are no fatalities.

Civil Liability and Criminal Liability of Building Owners

Of the two examples above cases, clearly there are casualties, both dead and wounded. The incident was caused by the element of negligence or possibly deliberate by the owner who did not meet the requirements mandated by the rules. Based on legal procedures, victims and their heirs can file lawsuits against the building owner as the responsible party. These lawsuits can take the form of civil damages and criminal liability.

In civil law, victims or their heirs can file a lawsuit for damages by reference to the provisions of Article 1365 of the Civil Code. These demands can be compensated medication and / or other losses such as lifetime disability and loss of life.

Although the owners must pay damages, but based on the doctrine of criminal law, recovery of losses does not eliminate the criminal liability (onrechtmatige daad). The Building Law specifically stipulates the criminal provisions that can be imposed on building owners as stipulated in the provisions of Article 46 and Article 47, which in full states as follows:

Article 46

1. Each building owner and / or user who does not meet the provisions in this law, is threatened with a maximum imprisonment of 3 (three) years and / or a maximum fine of 10% (ten percent) of the building value, if so, resulting in the loss of other people's property.
2. Each building owner and / or user who does not meet the provisions in this law, is threatened with a maximum imprisonment of 4 (four) years and / or a maximum fine of 15% (fifteen percent) of the building value, if it therefore results in an accident for others which results in a lifetime disability.
3. Each building owner and / or user who does not meet the provisions in this law, is threatened with

a maximum imprisonment of 5 (five) years and / or a maximum fine of 20% (twenty percent) of the building value, if it results in the loss of another person's life.

4. In the judicial process for the actions referred to in paragraph (1), paragraph (2), and paragraph (3) the judge shall consider the consideration of the building expert team.
5. Provisions regarding the procedure for imposing sanctions as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be further regulated by Government Regulation.



Article 47

1. Any person or entity who due to negligence violates the provisions stipulated in this law resulting in inadequate building functions that can be subject to confinement and / or fines.
2. Criminal confinement and / or criminal fines referred to in paragraph (1) include:
 - a. imprisonment for a maximum of 1 (one) year and / or a fine of no more than 1% (one percent) of the building value if it results in the loss of the property of others;
 - b. a maximum imprisonment of 2 (two) years and / or a maximum fine of 2% (two percent) of the value of the building if it causes an accident for another person causing life disability
 - c. imprisonment for a maximum of 3 (three) years and / or a maximum fine of 3% (three percent) of the building value if it results in the loss of another person's life.
3. Provisions regarding the procedure for imposing sanctions as referred to in paragraph (1) and paragraph (2) shall be further regulated by Government Regulation.

Referring to the provisions of Article 46 and Article 47 above, the negligent fines and imprisonment of the owner of the building which neglects the building owner and results in fatalities. But the sticking point, that under Article 46 paragraph (5) and Article 47 paragraph (3) mentioned concerning the procedures for the imposition of sanctions will be regulated in a government regulation. But it can be Government Regulation No. 36 of 2005, this was not regulated at all, so there is still a legal vacuum (rechtvacuum). **ALH**



THE IMPLEMENTATION OF OCCUPATIONAL SAFETY AND HEALTH MANAGEMENT SYSTEMS IN PUBLIC WORKS CONSTRUCTION IN INDONESIA

The development of Infrastructure is one of the main focuses of the current Indonesian government. The government has planned, conducted and even completed various infrastructure projects in different scales and variations, ranging from small scale projects such as the construction of suspension bridges, to large scale developments such as the construction of toll roads that connect the regions in Indonesia, railway lines, airports, industrial zones, power plants, power dams and other mega projects. However, there is one element that must be present in every project, namely the necessity to apply the principles and management of occupational safety and health.

Occupational safety and health become an essential part of the construction sector considering the high level of risk in work related accidents. This can be concluded from the high number of accidents that overshadowed the massive construction initiated by the government. In the beginning of 2018 alone, a high number of work accidents at national strategic projects had been recorded, including the accidents at the LRT project in East Jakarta and the Bekasi to Cawang, Kampung Melayu toll road construction

project. These fatal accidents resulted in death and serious personal injury to workers. The unsatisfactory implementation of occupational safety and health management was allegedly the cause of the accident.

In principle, every worker has the right of protection for Occupational Safety and Health (**K3**). K3 includes all activities that protect the safety and health of workers through the prevention of work accidents and occupational diseases. The right of every worker to K3 protection is guaranteed in Law Number 13 of 2003 concerning Manpower (**Manpower Law**)¹. The implementation of K3 is also regulated in Law No. 1 of 1970 concerning Work Safety (**Occupational Safety Law**) which contains technical guidelines regarding the application of K3 to achieve security in the workplace. In order to guarantee the rights of workers for K3 protection, the Manpower Law requires the implementation of an occupational safety and health management system.²

Government Regulation No. 50 of 2012 on the Implementation of the Occupational Safety and Health Management System (**PP 50/2012**) defines Occupational Safety and Health Management System

1. Article 86 Manpower Law; 2. Article 87 Manpower Law

(SMK3) as part of the company management system in the context of controlling work related risks with the purpose to create a safe, efficient and productive workplace. In implementing SMK3, every company must set up:³

1. K3 policy;
2. K3 planning;
3. Implementation of the K3 plan;
4. K3 performance monitoring and evaluation;
5. K3 review and performance improvement.

In the field of construction, the obligation to implement K3 is stipulated in Law No. 2 of 2017 concerning Construction Services (**Construction Services Law**). Under the Construction Services Law, Contractors are required to meet security, safety, health and sustainability standards in the process of construction. These standards include, among others, the quality standards of materials, equipment; occupational safety and health standards; standard of procedures and the quality of the results of the implementation of construction service, etc.⁴

More specifically, in the field of public works construction, the Ministry of Public Works and Housing of the Republic of Indonesia has provided guidelines for the application of SMK3 for public works construction as stipulated in Minister of Public Works Regulation No. 05 / PRT / M / 2014 concerning Guidelines for the Occupational

Safety and Health Management System (SMK3) in the Construction of Public Works, which was last amended by the Minister of Public Works No. 02/PRT/M/2018 (**PUPR Regulation 02/2018**). This regulation provides the application of K3 in every stage of the construction of public works, starting from the pre-construction stage; the stage of selecting goods/services providers; the actual construction process stage up to the delivery of the final project.⁵ Furthermore, this regulation also requires the involvement of a Construction K3 Expert or Construction K3 Officer in every work.⁶

PUPR Regulation 02/2018 required K3 Contract Plan ("RK3K")⁷ as one of the documents that must be submitted by contractors in the tender process. The Offer RK3K will then be evaluated. If the RK3K does not meet the K3 technical evaluation criteria, the offer will be disqualified.⁸ Next, The RK3K will then be approved by the PPK at the Pre-construction Meeting. The approved RK3K will become the reference for implementing SMK3 in the construction process.⁹ Subsequently, after the work is completed, the contractor is obligated to submit a report on the implementation of SMK3, statistics on occupational accidents, occupational illnesses as well as proposed improvements for future similar projects.¹⁰

The application of K3 requires cooperation from the government, contractors, as well as the workers who are directly involved in the implementation of construction. Contractors must prepare and provide a comprehensive and accessible SMK3, including ensuring the availability of K3 equipment. The construction workers are also required to abide by the K3 guidelines at each stage of the project and use the required K3 equipment the entire time. Last but not the least, the government must carry out a routine supervision to ensure that the relevant parties have implemented K3 in accordance with SMK3. The dedication from each party to fulfill its role is essential to ensure no more lives or lives will be sacrificed in the name of the development of this country. **WNA**



3. Article 6 PP 50/2012; 4. Article 59 (3) Construction Services Law; 5. Article 4 PUPR Regulation 02/2018; 6. Article 5 (2) PUPR Regulation 02/2018; 7. RK3K is a complete document regarding the plan to implement SMK3 Construction in the Field of Public Works and is an integrated contractual document for a construction work, which is made by the Service Provider and approved by the Service User, to further serve as a suggestion for interaction between the Service Provider and the Service User in implementing the SMK3 of the Public Works Construction Sector; 8. Article 8 PUPR Regulation 02/2018; 9. Article 9 PUPR Regulation 02/2018; 10. Article 10 PUPR Regulation 02/2018

OBTAINING CERTIFICATION OF GREEN BUILDING



Law Ground:

1. Law number 28 of 2002 on the Construction of Buildings "Law 28/2002";
2. Regulation of The Minister of The Environment Number 08 of 2010 "MR 08/2010";
3. DKI Governor Regulation No 38 of 2012 of Green Building" (example: Regulation which governs within DKI jurisdiction) "Gv Reg 38/2012"
4. Draft or Bill of Regulation of Ministry of Public Works on Guidelines for Green Building

Green Building Certification:

1. Each person who is in charge of a building can submit an application to obtain an environmentally green building certificate.
2. The green building certificate is issued after certification being conducted by the green building certification Institution.
3. Certification of environmentally friendly buildings includes activities:
 - a. Rating; and
 - b. Issuance of certificates
4. The eco-friendly/green building certificate is valid for 2 (two) years and can be extended.

How to Obtain Certification of Greenbuilding?

First of all, we should know what is the definition of Green Building? Green Building means a building that applies environmental principles in its design, construction, operation and management and also important aspects of handling the impacts of climate change.

Buildings can be categorized as green buildings if they meet the following criteria:

- a. Using environmentally friendly building materials which include:
 1. eco-label certified building materials;
 2. local building materials.
- b. There are facilities, utilities and infrastructure for conserving water resources in buildings, including:
 1. Water utilization system that can be quantified;
 2. Water sources that concerns on the conservation of water resources;
 3. Has a rainwater utilization system.



- c. There are facilities, utilities and infrastructure for conservation and energy diversification, among others;
1. Alternative renewable energy sources that are low in greenhouse gas emissions;
 2. Energy-efficient lighting and air conditioning systems;
- d. Using materials that are not ozone depleting substances in buildings, including:
1. Refrigerants for air conditioners that are not ozone-depleting substances;
 2. Fire extinguishers which are not ozone depleting substances.
- e. There are facilities, utilities and infrastructure for domestic wastewater management in buildings, including:
1. Equipping buildings with domestic wastewater treatment systems in business buildings and special functions;
 2. Equipping buildings with domestic waste water reuse treatment systems in business buildings and special functions;
- f. There are waste selection facilities;
- g. Noticeable to aspects of health for building occupants, among others:
1. Manage the clean air circulation system;
 2. Maximizing the use of sunlight;
- h. There are facilities, utilities and infrastructure for sustainable site management including;
1. Green open spaces as parks and biodiversity conservation, rainwater catchment and parking lots;
 2. Considering micro climate variability and climate change;
 3. Having a building management plan in relation to the spatial layout plan;
 4. Running building management in accordance with the plan; and/or;
- i. There are facilities, utilities and infrastructure to anticipate disasters, including:
1. Has an early warning system for disasters and disasters related to climate change such as: floods, typhoons, storms, landslides and sea level rise;
 2. Using building materials that are resistant to extreme weather or climate high rainfall intensity, drought and increased temperature.
- The bottom line is regulation of green building construction is specifically and comprehensively regulated in Permen 08/2010 above. Furthermore, this is issue governed in the Regional Regulations and Pergub of each region (depending on its jurisdiction) and general arrangements and national regulations according to Law 28/2002.

RKT



ANGGRAENI AND *Partners*

www.ap-lawsolution.com

TENDEAN SQUARE KAV. 17-18
Jl. Wolter Monginsidi No. 122-124
Kebayoran Baru, South Jakarta
Indonesia – 12170

PHONE : +62-21-72787678, 72795001

FAX : +62-21-7234151

EMAIL : connect@ap-lawsolution.net