



Implementation of Employment Social Security Programs for Contract Workers

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ABSTRACT

The employment pension guarantee program is a public program that provides protection for workers to overcome certain socio-economic risks using social insurance mechanisms. The form of protection provided to workers from the government and which must be taken into account is regarding the welfare of workers in the form of social security such as employment or basic nature mandated by law. This research discusses the provision of employment retirement programs for contract workers. The method in this research is normative jurisprudence with a statutory approach, a case approach and a conceptual approach. The results of this research conclude that contract workers are also entitled to a program created by the government, namely a social security program in the form of employment in accordance with the provisions of the applicable law. Not only permanent employees but contract workers also have the same rights and there needs to be an important role for the government to provide social security programs to contract workers in order to improve the welfare of their lives and families and as one of the drivers of the country's economy.

Keywords: Social Programs, Employment, Contract Workers

INTRODUCTION

Based on the 1945 Constitution of the Republic of Indonesia, Article 27 paragraph (2) and Article 28 state that employment is a human right. In Law No. 13 of 2003 concerning Manpower, Article 1 Number 2 states that "A worker or laborer is any person who works for wages or other forms of remuneration." Thus, a worker or laborer is entitled to wages because workers are an important part of driving the Indonesian economy, which must be protected by the government through the provision of Employment Pension Insurance. Legally, under Labor Law, workers and employers have equal status. However, the government intervenes in the payment of wages, meaning that wage standards are set by the government, and employers cannot arbitrarily pay wages to workers because this concerns the basic living standards of workers as determined by the government.

Referring to this, the problems that still exist in employment are related to wages, worker protection, and worker welfare. When it comes to permanent workers, they still receive job

protection guarantees that can even help improve their welfare. This is different for contract workers. This is still a problem for contract workers, because contract workers only receive wages for their work, but do not receive employment pension benefits, or even welfare benefits. In this case, all workers should receive pension benefits and protection for

The employment security program is a government program that provides protection for workers to overcome certain socioeconomic risks, which is implemented using mechanisms such as social insurance. In this case, the form of protection provided to workers must be implemented by every employer or entrepreneur who employs people to work and must be given serious consideration. The maintenance of improved welfare is intended to be achieved through the implementation of employment social programs that must be provided to every individual worker. The employment security program aims to improve the welfare of workers in Indonesia when they reach retirement age. Worker welfare can also be measured from various aspects by looking at the quality of life in terms of material aspects such as housing/place of residence, pension money, and physical aspects such as health for workers.

According to previous research (Nopita, 2024), pension programs are provided to workers who have reached retirement age or even those affected by termination of employment (PHK) regardless of whether they are permanent or contract workers. This shows that permanent and contract workers have the same status in terms of wages and employment security programs to help provide protection and welfare for workers. According to the Minister of Manpower (Ida Fauziyah), workers with fixed-term employment agreements (PKWT) or contracts will still receive social security if they are laid off (PHK), in accordance with the implementation of the rules on the disbursement of old-age security funds (JHT). Therefore, this raises the question of how the implementation of employment pension programs for contract workers will be carried out. This study was conducted with the aim of determining the provision of social programs by the government, such as employment pension programs for contract workers.

METHOD

The research method used by the researcher is an approach based on the analysis of cases that often occur in the field of work or regulations (existing provisions), as well as analyzing the relationship between workers, employers, and the government, and examining the obstacles faced. The analysis method used is qualitative descriptive analysis, which

produces descriptive information and then systematically describes the facts and cases that have been found in the research.

RESULTS AND DISCUSSION

A. Overview of Contract Workers

Labor is an important factor in a company's ability to achieve its goals, so management must optimize the role of its workforce in order to produce optimal performance and enable the company to win the competition. One strategy that can be applied in every company is to reduce operating costs in order to improve the company's performance and profits. In this case, the use of contract workers is also necessary, and can be done in two ways, namely:

1. The company enters into a contract directly with the relevant workers, or
2. The company uses contract workers sourced from a contract labor agency (outsourcing agency). Outsourcing is defined as a form of cooperation contract between a company and a partner company that provides workers to be employed for a certain period of time in accordance with a contract agreed upon by both parties. So in this case, the company employing the workers does not have a direct relationship with the workers, but rather through the outsourcing agency.¹

B. Factors Driving Contract Labor

1. Temporary work: For temporary work, management will also encourage the employment of contract workers. This is certainly a reasonable argument because if permanent workers are used, they may become a burden on the company once the temporary work has been completed. Several types of work that are usually temporary are commonly found in contracting companies, namely companies that accept work contracts with companies that choose to use contract workers every time they (the companies) obtain a project.
2. Fluctuating work: Fluctuating work in a company encourages the use of contract workers. When there is a surge in work volume, they will seek and require contract workers, and when the work is completed, they will terminate the employment relationship. Companies with fluctuating workloads are usually engaged in agriculture, where volume depends on the season.

¹ Maryono, "Jurnal Bisnis dan Ekonomi" (Vol.16 No.1, maret 2009)pp. 26-31

3. Low wages: Contract workers reduce labor costs. This is because contract workers do not have the same rights as permanent employees, so they usually only receive the wages agreed upon in advance between the company and the contract worker.
4. Ease of termination of employment (PHK): It is very easy for companies to terminate the employment of contract workers because when the contract period agreed upon with the worker expires, the employment relationship automatically ends.

C. Provisions on Contract Workers in the Labor Law

Employment agreements in contracts are divided into two types, namely fixed-term and indefinite-term employment contracts. Fixed-term employment agreements are based on a specific period of time or the completion of a specific job. Employment with a fixed-term agreement can be extended or renewed, whereas an indefinite-term employment agreement cannot be extended or, in other words, the employment relationship can be terminated.²

D. Outsourcing Employment Relationships

Outsourcing regulations explain that companies can delegate part of their work to other companies through written work outsourcing agreements or service provider agreements. With these two separate agreements, even though outsourced workers work at the employer's company, their status remains as employees of the service provider company. Therefore, under this outsourcing system, the fulfillment of workers' rights, such as wage and welfare protection, working conditions, and any disputes that arise, remains the responsibility of the labor service provider company.

To protect outsourced workers, the Labor Service Provider Company (PPJP) must meet the following requirements: ³

1. The worker supply company is a legal entity and has a license from the competent authority.
2. Placed workers/employees may not be used to carry out core activities related to production.

²Ibid, hlm.27

³ Christoper Ganadhi The, Tanggung Jawab PPJP Sebagai Penerima Pekerja Outsourcing Dari PPJP Sebelumnya Apabila Terjadi PHK, Fakultas Hukum: Universitas Airlangga Surabaya. Jurnal Hukum Bisnis Bonum Commune Volume 1, Nomor 1, Agustus 2018

3. There must be a clear employment relationship between the workers/laborers and the labor service provider company, so that those placed receive optimal employment protection facilities in accordance with labor standards.
4. The employment relationship must be set forth in a written agreement that contains all the rights and obligations of the parties in accordance with labor laws.

The existence of contract workers in carrying out their work activities should be supported by facilities and infrastructure for good and humane management, so that these workers can work well and in accordance with the government's expectations without any anxiety, dissatisfaction, or disappointment. Basic living needs refer to the essential needs of every person in order to live properly. For the sake of social welfare for all Indonesian people, it is mandatory for workers to obtain BPJS employment insurance as stated in Article 14 of the BPJS Law, which reads, "Every person, including foreigners who have worked for at least 6 (six) months in Indonesia, must participate in the Social Security program."⁴ The provision of social programs referred to above may take the form of social employment programs. In this case, the provision of employment social programs to workers is a form of protection for workers who face social risks that can result in a reduction or loss of income. Therefore, it is necessary to increase labor protection in employment insurance programs that aim to provide peace of mind at work and guarantee the welfare of workers and their families.

Based on this, it can be concluded that employment social security is also mandatory for contract workers employed by government agencies, who are also entitled to participate in the employment security program. According to Government Regulation No. 37 of 2021, "every worker with PKWT status who meets the eligibility requirements can become a recipient of the program." Job Loss Insurance (JKP) due to termination of employment (PHK) in the form of cash, access to job market information, and job training.⁵

⁴ See Law on the Social Security Administering Body, Article 14

⁵ See Stipulation of the Government Regulation No.37 year of 2021

In Indonesia, contract employees are also entitled to social security, including Employment Social Security (JSK), which covers Work Accident Insurance (JKK), Death Insurance (JKM), Old Age Insurance (JHT), and Pension Insurance (JP). This insurance is regulated in Law No. 24 of 2011 concerning the Social Security Administration Agency (BPJS).⁶ The social security provisions for contract employees refer to two schemes, namely:

1. Wage Earner Participants (PPU): Contract employees who work as wage earners (PPU) are required to be BPJS Ketenagakerjaan workers. Under this scheme, BPJS Ketenagakerjaan contributions are paid by the employer (company) at a rate of 5% of the employee's salary or wages, while employees (PPU) do not pay contributions.
2. Non-Wage Earner Participants (PBPU): Contract employees who are not included in the PPU category, such as employees who work under other employment agreements or are self-employed, can also become BPJS Ketenagakerjaan participants under the PBPU scheme. Under this scheme, BPJS Ketenagakerjaan contributions are paid in full by the employee (PBPU), without any contribution from the employer.⁷

When it comes to social security, BPJS Ketenagakerjaan provides protection for employees, including contract employees, against the risks of workplace accidents, death, old age, and retirement. This social security provides benefits in the event of a workplace accident, death, reaching retirement age, or reaching old age).⁸ It is important for companies to ensure that all contract employees are registered as participants in the BPJS employment program and have paid their contributions in accordance with the provisions. applicable. Thus, contract employees must ensure that the company has fulfilled its obligation to provide social security in accordance with applicable laws and regulations.

⁶ See Stipulation of the Law on Social Security Administering Body (BPJS) No.24 Tahun 2011

⁷ Kepesertaan, 2022. "Apakah Pegawai PKWT Dapat Mengikuti Program JKP?" dalam <https://halo.jkp.go.id/support/solutions/articles/>, accessed on 11 January 2022

⁸ Abitech, 2023. "Apakah Karyawan Kontrak Berhak Atas Jaminan Sosial?" dalam <https://www.abitech.co.id/knowledge/apakah-karyawan-kontrak-berhak-atas-jaminan-sosial/>, accessed on 12 July 2023

In this case, it has been stated that not only permanent employees working within the company will receive the employment pension program, but PKWT employees or contract workers will also receive the same benefits.

1. Settlement of Industrial Relations Disputes

There are two types of industrial relations disputes, namely:

- a. Industrial relations disputes where the legal subject is involved in industrial relations disputes
 - b. Industrial relations disputes where the legal subject is another labor union within the same company.
2. Social security programs provided by companies through BPJS can take the form of old age insurance, work accident insurance, death insurance, and pension insurance. This social security is not only provided to permanent employees but also to contract workers.
3. In this case, the government also plays an important role in providing employment security programs to workers employed by large companies or institutions. This is because every individual worker is entitled to equal social security, as contract workers are also one of the drivers of the country's economy.

CONCLUSION

Workers or laborers are individuals who work in exchange for wages or other forms of compensation. In this case, contract workers or PKWT workers and permanent workers have the right to receive the same wages and social security programs such as employment. This is to assist contract workers in improving their welfare. Until now, many people have assumed that contract workers are not entitled to social security programs such as employment insurance in accordance with the programs provided by the government for workers. This is because in this case, contract workers are considered to have a percentage of contributions to the employment insurance program that is not sufficient with the wages that have been provided by the employer (company). In reality, however, the social security program contribution paid by contract workers is 5%, with the remainder borne by the employer (company).

The provision of this employment social security program is also regulated in the Manpower Act and Government Regulation No. 37 of 2021. Workers affected by termination of employment (PHK) will also receive the same rights as permanent workers. This also applies



to outsourced workers. Legal actions taken by outsourced workers against PPJP that does not recognize their previous period of employment at PPJP are resolved in two ways, namely through the settlement of labor disputes outside the industrial relations court and through the industrial relations court. The settlement of labor disputes outside the industrial relations court according to Law No. 2 of 2004 is through bipartite, mediation, conciliation, and arbitration.

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