

Juridical Study of Determination of Wages for Workers based on Job Creation Act

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Abstract

The enactment of Law Number 11 of 2020 concerning Job Creation makes the wage system previously regulated in Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower undergo a change where the wage system which initially stated that the governor was obliged to set the minimum wage for the province became the governor to set the minimum wage. district/city with certain conditions where the use of the word “can” in determining the district/city minimum wage (UMK) is very detrimental to workers. The type of research used is normative legal research. The type of approach used is the Legislative Approach. Legal concept approach. Historical approach. The sources of legal materials used in this study are primary legal materials, secondary legal materials, and tertiary legal materials. Legal Materials Collection Techniques that the author uses in this study is a literature study data collection technique. Based on the legal materials obtained and then analyzed, then used the technique of processing legal materials in a qualitative descriptive manner. The conclusion of this study is that the regulation of the wage system in Law No. 11 of 2020 concerning job creation is the type of wages reduced where there are several points missing from the Manpower Act, the component of decent living is not included where the Job Creation Act eliminates these points in provisions for determining minimum wages and years of service are not considered in the Job Creation Act. Then the determination of the wages of workers based on article 88 c of Law No. 11 of 2020 concerning job creation only provides for the obligation to determine the minimum wage at the provincial level, while at the district/city level it is optional or optional. In fact, the provincial minimum wage is the lowest minimum wage among all district/city minimum wages in the province.

Keywords: Determination of Wages, Workers based on Job Creation Act.

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1. Introduction.

Employment is all matters relating to labor before, during, and after the work period. Employment in national development is an important dynamic factor to determine the rate of economic growth both in its position as a productive workforce and as a consumer. The imbalance in the distribution of population between regions or regions results in a disproportionate use of labor (F. Winarni, 2016: 89). Workers or laborers are the backbone of the company. This adage seems ordinary as if it has no meaning. But if you examine it further, you will see the truth. Workers are said to be the backbone because they have an important role. Without workers it would be impossible for the company to run and participate in development (L. Husni, 2013:75).

Manpower is an integral part of national development based on Pancasila and the 1945 Constitution of the Republic of Indonesia carried out in the context of developing Indonesian people as a whole and the development of Indonesian society as a whole in order to increase the dignity, dignity and self-esteem of the workforce and to create a prosperous, just, and fair society. prosperous, and equitable, both materially and spiritually. In accordance with the role and position of the workforce, it is necessary to develop manpower to improve the quality of the workforce and their participation in development. Manpower development must be regulated in such a way that basic rights and protections for workers and workers/laborers are fulfilled and at the same time can create conditions conducive to the development of the business world (Wijayanti, Asri, 2010:6).

Law Number 11 of 2020 concerning Job Creation makes the wage system previously regulated in Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower undergo a change where the wage system for workers is regulated in Article 88 C paragraph (1) and Paragraph (2) the enactment of Law Number 11 of 2020 concerning Job Creation wherein Article 88C Paragraph (1) states that the governor is obliged to determine the provincial minimum wage

and Article 88C Paragraph (2) which states that the governor can set the district/city minimum wage with certain conditions.

According to the Confederation of Indonesian Trade Unions the use of the word "can" in determining the district/city minimum wage (UMK) is very detrimental to workers. Because the determination of the UMK is not an obligation, the governor may not set the UMK. This will result in low wages. We take the example in West Java, for 2019, the West Java UMP is IDR 1.8 million. Meanwhile, the minimum wage in Bekasi is Rp. 4.2 million. If only the UMP is set, then the value of the minimum wage in Bekasi will decrease. In other words, the enactment of the Job Creation Law returns to the low-wage regime. This is very contradictory, especially since Indonesia has been independent for more than 75 years. Moreover, coupled with the elimination of minimum wages by sector in the province or district/city (UMSK and UMSP), because Law No. 11 of 2020 abolished Article 89 of Law No. 13 of 2003 concerning Manpower. The elimination of UMSK and UMSP clearly causes injustice. How is it possible for the automotive industry sector such as Toyota, Astra, and others or the mining sector such as Freeport, Nickel in Morowali and others, the Minimum Wage value is the same as a clothing company or cracker company. That is why, all over the world there is a Sectoral Minimum Wage that applies according to the value added contribution of each industry to the country's per capita income.

In addition, Article 88C paragraph (1) of the Job Creation Law states that governors are required to set a provincial minimum wage and Article 88C paragraph (2) of the Job Creation Law which states that governors can set district/city minimum wages under certain conditions. So if further observed the use of the word "can" in Article 88 C Paragraph (1) causes multiple interpretations where the use of the word "can" causes the determination of district and city minimum wages as if it is not an obligation for local governments. Based on this background, it can be found the formulation of the problem, namely how is the regulation of the wage system in the Law of the

Republic of Indonesia number 13 concerning manpower which has been changed to Law number 11 of 2020 concerning job creation, as well as determining the wages of workers based on Law number 11 2020 on job creation.

2. Analysis and Discussion.

The legal regulation of the Wage System in Law Number 11 of 2020 concerning Job Creation, that in this case the legal protection given to legal subjects is in the form of tools, both preventive and repressive, both oral and written. In other words, it can be said that legal protection is a separate picture of the function of the law itself, which has the concept that the law provides justice, order, certainty, benefit and peace. There are two kinds of legal protection, namely preventive legal protection and repressive legal protection (Harun, 2000). Such legal protection can be related to the provision of legal protection in terms of Wages in Law Number 11 of 2020 concerning Job Creation.

So that in the context of protecting workers/ laborers on the income earned, the government has set a minimum wage. The government changed the wage provisions in Law No. 11 of 2020 concerning Job Creation. These changes include the abolition of the regency/municipal minimum wage (UMK) and the sector-based minimum wage in the province or district/city. Previously, it was stated in Articles 89 and 90 of Law No. 13 of 2003 concerning Manpower. And instead, the government provides an obligation for governors to set provincial and district/city minimum wages with certain conditions, namely economic growth and inflation (Dewi Restu Mangeswuri, 2020: 6). This means that the Law only requires the determination of the minimum wage for the province, at the district/city level it is only optional. The provision of the district minimum wage which must be higher than the province's may mean that the provincial minimum wage is not representative of the decent needs in the district.

In article 88B wages are determined based on time units and units of results. Wages based on time units are set on an hourly, daily or monthly basis.

Determination of hourly wages is only for workers/laborers who work part-time. The calculation uses the wage calculation formula. The omnibus law will make working hours more flexible, which will provide flexibility for workers and employers to agree on working hours. Workers who work a minimum of 8 hours/day or 40 hours per week will receive a monthly wage. Meanwhile, workers who work less than 35 hours/week will use the hourly wage arrangement and can work in more than 1 company. However, it should be emphasized that hourly wages do not replace monthly wages. Hourly wages are applied to accommodate service work such as consultants or part-time workers while still providing job security. As for workers in the industrial sector will not experience it. This scheme is common in developed countries to boost investment and generate new jobs.

Determination of Worker Wages Based on Law Number 11 of 2020 concerning Job Creation, in this case Article 88 of the Employment Creation Act changes the policy regarding employee compensation. This provision is regulated in Article 81 number 24 of the Job Creation Law which replaces Article 88 of the Manpower Act. Article 88 paragraph (4) contained in the Manpower Chapter only reveals seven wage policies, which previously contained eleven in the Manpower Law. The seven policies include the minimum wage, structure and scale of wages, overtime pay, wages not coming to work, forms and methods of payment of wages, things that are calculated with wages, and wages as the basis for calculating or paying other things and obligations.

In article 95 there is no fine for employers who are late in paying wages to workers who are terminated because of the third warning letter do not receive severance pay, workers who are terminated because of a change in status, merger, consolidation, or change in company ownership do not receive severance pay, workers who terminate because the company suffered a loss for two years or circumstances forced not to get severance pay, workers who were terminated due to entering retirement age were no longer given severance pay, workers who

were terminated due to prolonged illness or when they were disabled due to work accidents no longer received severance pay, leave contract work at all types of work, outsourcing is free to use in all types of work and there is no time limit. Article 88 paragraph (4) states that "Further provisions regarding the wage policy shall be regulated by a Government Regulation". Other points that are in the spotlight of the community, especially the labor or worker group, include, the Minimum Wage is based on the Provincial Minimum Wage, Article 88C of this Job Creation Law is an article that discusses the Provincial Minimum Wage. The article reads:

1. The governor is obliged to determine the provincial minimum wage.
2. The governor may determine the district/city minimum wage under certain conditions.
3. The minimum wage as referred to in paragraph (1) and paragraph (2) is determined based on economic and manpower conditions.
4. Certain conditions as referred to in paragraph (2) include regional economic growth or inflation in the regencies/municipalities concerned.
5. The regency/municipal minimum wage as referred to in paragraph (2) must be higher than the provincial minimum wage.
6. The economic and manpower conditions as referred to in paragraph (3) use data sourced from the authorized institution in the field of statistics.
7. Further provisions regarding the procedure for determining the minimum wage as referred to in paragraph (3) and certain conditions as referred to in paragraph (4) shall be regulated in a Government Regulation.

National development is essentially the development of Indonesian people as a whole, both in the physical and spiritual fields within the scope of a civilized and socially just Indonesian society (Indradewi, A. S. N. 2015: 2).

Social justice itself has a relative meaning, it cannot be defined in detail and comprehensively. Basically, social justice must reflect a situation where economic growth and development results can be enjoyed by all levels of society without exception, not just for a certain group of people or groups. Therefore, to realize national social justice, national development is needed that is evenly distributed throughout the country. It is hoped that the results of development can be enjoyed by all Indonesian people. This means that through the Determination of Worker Wages Based on Law Number 11 of 2020 concerning Job Creation, the welfare of workers will be created which has an impact on maximum and positive national development.

3. Conclusion.

The regulation of the wage system in Law No. 11 of 2020 regarding work creation is the type of wages reduced where there are several points missing from the Manpower Act, namely points regarding wages for not coming to work due to absence, wages for exercising the right to rest time, wages for severance pay, and wages for income tax calculations. Then the decent living component is not included where the Job Creation Act eliminates these points in the provisions for determining the minimum wage. Finally, the term of service is not considered which in the Job Creation Act, eliminates the provisions in Article 92 which states that the determination of wages and years of service uses considerations of class, position, tenure, education and competence of workers so that the Job Creation Act delegates the preparation of structures and the wage scale is only based on the ability and productivity of the company. Determination of the amount of wages for workers based on Law No. 11 of 2020 concerning job creation according to article 88c states that "The Governor is obliged to determine the provincial minimum wage." Furthermore, in paragraph (2) it is stated that "The governor can determine the district/city minimum wage with certain conditions." This means that the Job Creation Law only provides for the obligation to set minimum wages at the provincial level, while at the district/city

level it is optional or optional. In fact, the provincial minimum wage is the lowest minimum wage among all district/city minimum wages in the province. This is due to the provision that the district/city minimum wage must be set higher than the provincial minimum wage. This means that the provincial minimum wage may not be representative of the need for a decent living in a district/city, due to the possibility of disparities in socio-economic conditions between districts/cities in a province.

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