

Implementation of the Employment Creation Act for Workers with a Specific Time Work Agreement

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Abstract. This paper discusses the implementation of the Employment Copyright Act for employees of certain time employment agreements. By using a qualitative approach, the normative juridical method, then analyzed through descriptive analysis in order to present the results of a comprehensive analysis. The results of the analysis show that there are several changes related to the rules regarding certain time work agreements in Law no. 11 of 2020 concerning Job Creation and regarding these changes, there are still some problems and legal vacancies in some provisions, so the government should issue government regulations and/or other implementing regulations deemed necessary to deal with these problems.

Keywords: Employment Creation Act; Workers; Certain Time Employment Agreements

1 Introduction

Employment issues are a relatively influential social, political, and economic agenda in modern countries. The development of the human resources sector plays a significant role in increasing national productivity and the welfare of the people of a nation. In Indonesia alone, the number of workers based on data from the Central Statistics Agency in February 2019 was 136.18 million people or about half of the total population in Indonesia. According to the World Bank (2013), employment performance in Indonesia is one of the strongest in the East Asia Pacific Business issues in Indonesia have been managed in Law no. 13 of 2003 concerning Manpower, which is a solution to the public authority's political will in the field of work regulation, which has a respectable objective for the security of laborers. With the regulations and guidelines administering employment in Indonesia, employment issues, which are relationships between individuals or between individuals and legal entities, are no longer purely private but also involve elements of the state. [1]

Human assets regulation controls the functioning connection among laborers and bosses. At the end of the day, it holds the interests between people or among people and lawful substances. The functioning relationship contains the freedoms and commitments of laborers and businesses, where these privileges and commitments are equal to each other. These freedoms as well as certain limitations, aside from being managed parents in law and guidelines, are likewise gone with in view of an arrangement between the specialist and the business visionary, which is then framed as a work understanding so the business relationship can't be isolated from the work arrangement made by the laborer and the business person.

The principles contained in the constitutional provisions described above are also related to efforts to protect workers from guaranteeing the fundamental rights of workers/laborers. This is also in line with the national development goal, which aims to advance the overall government assistance of all Indonesian individuals who are simply and prosperous. The plan shows HR improvement as an essential piece of public development to increase dignity and create a prosperous, just, and prosperous workforce evenly distributed both materially and spiritually. After the reformation, Indonesia is slowly recovering and recovering from the economic crisis. Even so, it does not necessarily mean that all employment problems can improve. As we know, the problems of labor in Indonesia are very diverse and complex, a small part of which includes the issue of wages.[2]

Wages are the most important thing in employment because the purpose of people working is to get wages that will be used to meet their daily needs. Regulation Number 11 of 2020 concerning Job Creation which in its execution has subsidiary standards with respect to the pay framework, specifically Government Regulation Number 36 of 2021 concerning Wages Article 1 number 1, which peruses, "Wages are the privileges of laborers/workers got and communicated as cash as remuneration. from the business person or boss to the specialist/worker not entirely settled and paid by a work arrangement, understanding, or legal guidelines, including remittances for the laborer/worker and his family for a task and additionally administration that has been or will be performed.[3]

Arrangements regarding work agreements can be found in the Civil Code in Chapter VIIA on work agreements which are included in the third book, which regulates engagements. Based on Article 1601a of the Civil Code, a work agreement is an agreement that the first party, namely the worker, binds himself to surrender his labor to another party, namely the employer, with wages for a certain time. However, in line with the issuance of Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower (Labor Law), the arrangements regarding employment agreements are subject to that law, which has then been amended again by Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Law of the Republic of Indonesia). - Employment Creation Act), which carries the concept of the Omnibus Law. Omnibus Law became known in Indonesia after Joko Widodo delivered his state address when he was sworn in as President of the Republic of Indonesia before the People's Consultative Assembly session on October 20, 2019.

The concept of Omnibus Law or commonly known as the universal sweep law is a new concept for the legal system in Indonesia. This concept is able to replace several norms in several laws merged into one regulation. This concept is used to cut down some norms that are considered incompatible with the times, too many regulations, and even those that can harm the interests of the state. Based on this, it will be explained related to the implementation of the Job Creation Law on a Specific Time Work Agreement.

2 Research Methods

This paper utilizes a regulating lawful examination strategy leaving from the presence of Problem Norms, in particular the presence of unclear standards, struggle standards, and void standards.[4] Utilizing approaches: resolution approach, reasonable methodology, and scientific methodology. The procedure of following legitimate materials utilizes archive concentrate on methods, as well as investigation concentrates on utilizing subjective examination.[5]

3 Results and Discussion

The functioning connection among laborers and businesses happens after a business arrangement exists between the specialist as the party getting the work and the business as the party giving the work. 9 In a business relationship contains the privileges and commitments of the two laborers and bosses. Consequently the presence of a work understanding turns into a vital component in a business relationship. Furthermore, to give lawful assurance to laborers, a composed work arrangement among laborers and businesses is additionally expected to make a legitimate relationship that can be demonstrated or generally alluded to as a commitment.

The employment relationship is something abstract in nature, while the work agreement is something concrete or real so that with the existence of a work agreement, there will be a concrete and tangible bond between the worker and the entrepreneur. In other words, the bond due to the existence of this work agreement is an employment relationship. Arrangements regarding engagements are specifically regulated in the Civil Code Book II in the general section from Chapter I to Chapter IV, for example, the rules on how the birth and termination of an engagement, types of engagements, and so on.

Article 1313 of the Civil Code specifies that the significance of an understanding is a demonstration by which at least one person ties themselves to at least one different person. As per Subekti, an understanding is an occasion where an individual vows to someone else or where at least two individuals guarantee each other to do something. From this occasion, a relationship emerges between these individuals, which is called a commitment. The deal distributes a commitment between the people who make it. In its structure, the arrangement is as a progression of words containing guarantees or commitments made in writing or orally.

The parties involved in an agreement that is held and have agreed on the object of the agreement or something that must be carried out are called achievements. In the work agreement, the achievement referred to is the obligation of the worker to do the work and the obligation of the entrepreneur to pay wages.

As for the agreement itself, it is generally regulated in Article 1320 of the Civil Code, where it is regulated that the validity of an agreement needs to meet four conditions, including the agreement of those who bind themselves, the ability to make an engagement, a certain subject matter (object). Promised), and a cause that is not forbidden. An agreement that has fulfilled these conditions can be said to be a valid agreement, and the agreement is binding as a law for those who make it.

The difference can be seen that in the new regulation, it is stated directly that the casual daily work is a work agreement for a certain time, whereas, in *Kempen 100*, it is only implied but not explicitly stated. In addition, there are differences in the status of workers who change when the worker/day laborer works 21 (twenty-one) days or more than 3 (three) months. In the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: KEP.100/MEN/VI/2004 concerning Provisions for the Implementation of a Specific Time Work Agreement, it is stated that if a daily worker works 21 (twenty-one) days or more than 3 (three) months, then The casual daily work agreement changes to PKWTT but in the new labor regulations in Article 10 paragraph (4) Unofficial law of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Certain Time, Outsourcing, Working Time and Rest Time, and Termination of Employment it is stated that the agreement daily work by law does not apply, and the status of workers becomes PKWTT workers. This provides a clear explanation of when the worker's status changes to PKWTT. In the previous regulation, it was stated that if the worker worked 21 (twenty-one) days or more for 3 (three) consecutive months or more, the casual daily work agreement changed to PKWTT.

The intended casual daily work agreement is not explained in detail because it is possible that the company employs casual daily workers for more than 3 (three) months and then renews it so that when the daily worker changes to PKWTT, it becomes unclear. Meanwhile, in the current regulations, it is stated that the Daily Work Agreement that violates the provisions becomes invalid, and the Employment Relationship between the employer and the Worker/Labourer changes by law based on the PKWTT so that the basis for when a daily worker becomes a PKWTT worker is based on the date of entry of a casual daily worker.

In addition, the regulation regarding daily freelance agreements in the new rules is explained in more detail where the work agreement has several things that must be written, such as the name of the company, the type of work and the number of wages. The previous regulation did not state what things need to be in the daily work agreement, so it is very likely that the employer can act freely on the work of the worker. For example, the type of worker's work, if not regulated, the company will freely regulate workers without limits, such as hiring workers in jobs where employees are incompetent or have a high workload which should not be appropriate if they are paid as daily workers. With the existence of the Job Creation Law with its derivative rules, namely Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Certain Time, Outsourcing, Working Time and Rest Time, and Termination of Employment Relations, therefore daily workers get better protection.

In the Manpower Act, work arrangements can be isolated into specific time work arrangements (PKWT) and endless work arrangements (PKWTT). The essential distinction between a work understanding for a specific timeframe and a work arrangement for an endless timeframe lies in the timeframe. A work understanding for a specific timeframe is an arrangement between a laborer and a business visionary to go into a functioning relationship for a specific timeframe, while a work understanding for an endless period is an arrangement between a specialist and a business visionary to have a long-lasting working relationship. In the Job Creation Act, the provisions that have undergone many changes are the provisions governing certain time work agreements.

A specific time work understanding should be founded on a timeframe or the fruition of a specific work and cannot be held for permanent work. The Manpower Act provides for arrangements for certain time work agreements to give employers a choice, a form of work agreement that can be applied to work that is limited in time, so that employers do not have to appoint permanent workers for jobs whose completion time is limited. Prior to the enactment of the Employment Creation Act, the Manpower Act stipulates that work agreements for a certain time are made in written form and use Indonesian and Latin letters. The purpose of a certain time work understanding that should be made recorded as a hard copy is to give legitimate sureness to the gatherings, including assurance in regards to the freedoms and commitments of the specialists and businesses.[6]

It is also intended that in the event of a dispute at a later date, the written work agreement will be used in assisting the evidentiary process. However, in practice, it is not uncommon to find work agreements for a certain time that are carried out without a written agreement. Work agreements are made orally only on the basis of trust. One of the factors that cause this is the inability of human resources or because of the prevalence factor. 186 21 This is, of course, very risky, considering that based on Article 57 paragraph (2) of the Manpower Act, a work agreement for a certain time that is not made in writing is legally declared an indefinite work agreement. This means that the agreement is not limited in time for completion, and at the time of termination of employment, the employer has an obligation to pay compensation in the form of severance pay, long service awards, or other rights related to work-based on an indefinite work agreement.

4 Conclusion

The Employment Creation Act has given replies to issues in regards to remuneration toward the conclusion of the business friendship with the expansion of Article 61A. Where in the article specifies that when the work understanding for a specific time frame close, the business visionary is obliged to give pay cash to the laborer whose sum is acclimated to the functioning time of the specialist concerned. Notwithstanding, after the establishment of the Job Creation Act, there are as yet a few issues that merit consideration, including there is no restriction on the greatest period for a specific sort of work understanding in view of the finishing of a specific work, there are no lawful outcomes assuming a work arrangement is a sure time made recorded as a hard copy, and there are no game plans with respect to notices from businesses in regards to the augmentation and reestablishment of work arrangements for a specific time frame.

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