

Application of Minimum Wages of Workers: based on the Government Regulation of the Republic of Indonesia No. 78 of 2015 about Wage

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One of the safeguards in labour matters is the proper wage for workers. Because wages are the goal of workers in doing work. Every activity carried out by workers contains aspects of social relations, legal relations, and relations between organisations that give rise to rights and obligations; these are carried out based on the values contained in Pancasila. To realise an income that fulfils a decent living for humanity and protection of wages, setting minimum wages and imposing fines is required. The Government has established Government Regulation No. 78 of 2015 concerning wages. Therefore, the focus of this research is: First, the application of workers in review of Government Regulation of the Republic of Indonesia Number 78 Year 2015 regarding wages; and, second, inhibiting factors for minimum wages to the Government Regulation of the Republic of Indonesia Number 78 Year 2015 Regarding Wages. This type of research is a normative legal research that is based on mere secondary data.

Key words: *Implementation, Minimum Wages and Workers.*

Introduction

Work is a mandate that is run by humans as their creation in this world. It is appropriate if the work is carried out in accordance with our interests, talents and abilities. Work will be far more valuable if it gives a good influence to the community. In Javanese culture the proverbial *Mamayu hayuning bawana* is known, or works to build and improve life in the world. However, work must also create benefits for us to be able to continue to

live. Defending yourself to continue to live and raise the standard of living is a basic human right. Therefore, it is appropriate if every job will receive compensation in the form of rewards. For workers / labourers, these benefits are called wages (Emmanuel, 2013).

In the field of employment, the parties involved in it, namely workers, employers and the government will lead to the establishment of industrial relations. The purpose of creating industrial relations is in the context of finding a balance between the interests of workers, employers and the government; because these three components have their respective interests. For workers, the company is a place to work as well as a source of income and livelihood for themselves and their families. For entrepreneurs, the company is a place to exploit capital to get the maximum profit. For the government, companies are very important because large and small companies are part of the economic power that produces goods or services to meet the needs of the community. Therefore, the government has an interest and responsibility for the survival and success of any company; and the government has a role as a protector, mentor and conciliator for all stakeholders in society in general and parties involved in the production process in particular. Thus, industrial relations based on harmony and balance of the parties involved in the production process will run well.

Protection of labour is mandated in Article 28 D Paragraph (2) of the 1945 Constitution, which is written: "Everyone has the right to work and to receive fair and appropriate compensation and treatment in an employment relationship."

One of the safeguards in labour matters is the proper wage for workers / labourers. Because wages are the goal of workers / labourers in doing work. Such activities carried out by labour contain aspects of social relations, the legal relationship, and the relationship between organisations with rights and obligations, and implemented based on the values of Pancasila. To realise income that fulfils a decent living for humanity and protection of wages, setting minimum wages and imposing fines, as referred to in Article 97 of Law No. 13 of 2003, concerns manpower. The Government has established Government Regulation No. 78 of 2015, concerning wages.

Discussion

Everyone has social rights (*social entitlements*) such as the similarity in terms of social responsibility. Everyone has *social entitlements* such as equality in employment opportunities, obtaining adequate food, clothing and *housing*, freedom of expression, justice and participation in government (the right to vote). Broader than the social rights, each individual also has the right to develop (*right to development*) that is to participate, enjoy and contribute in developing the economic, social, cultural, and political. The state has the obligation to make national development policies for all its citizens based on fair distribution.

Based on Article 27 paragraph 2 of the 1945 Constitution Jo. Article 1 number 2 Law No. 13 of 2003 concerning manpower states that Manpower is every person who is able to do work to produce goods and/or services both to meet their own needs and for the community. Besides that, labour is the backbone of development which in this case is industrial growth, so the activities carried out will contain aspects of social relations, legal relations, and inter-organisational relationships that can give rise to rights and obligations and are carried out based on the values contained in Pancasila.

The role of the government in setting minimum wages to the value of decent living needs (KHL) is in a *policy system* which includes a reciprocal relationship between three elements, namely public policy, policy actors, and the policy environment. Public policy is a series of interconnected choices made by the government and formulated in problem areas. Areas of potential problems that contain conflicts between existing segments in the community are, for example, the policy of setting minimum wages for the value of decent living needs (KHL).

Minimum wages in Indonesia have increased from year to year and are considered by the government and employers as evidence of their commitment to improving labour welfare. However, the endless debate over workers and employers regarding the appropriate wage rate is evidence of relativity about the meaning of increasing minimum wages to the value of decent living needs (KHL) related to labour welfare. Therefore, based on Law Number 13 of 2003 concerning Manpower Article 89 paragraph (2) which reads "the minimum wage as referred to in paragraph (1) is directed towards the achievement of the needs for a decent living".

In consideration of letter d of Law No. 13 of 2003 concerning Manpower states that:
"Protection of workers is intended to guarantee the basic rights of workers / labourers and guarantee equal opportunities and treatment without discrimination on any basis to realise the welfare of workers / labourers and their families while still taking into account developments in the progress of the business world ".

This is confirmed in Article 6 of Law No. 13 of 2003 concerning Manpower which states: *"every worker / labourer has the right to receive the same treatment without discrimination from employers"*. So, every worker has the right to get the same treatment without difference from the employer, leaving the employer to realise it. Both from the time the worker was accepted as a worker up to the placement and at the time the worker carried out work in the company.

Furthermore, according to Soepomo "Legal protection for workers is the safeguarding so that workers can do decent work for humanity. One of the forms of this legal protection is work

norms which include protection of workers who are related to working time, wage system in accordance with the laws and regulations set by the Government, social obligations and partly maintaining the excitement and morale of work that guarantees work efficiency high and appropriate treatment with dignity and morals" (Joni, 2013).

Article 1 number 15 of Act No. 13 of 2003 concerning Manpower states that "*employment relations are relations between employers and workers / labourers based on work agreements, which have elements of work, wages and orders*". Whereas Article 1 number 14 of Act No. 13 of 2003 states that "*an employment agreement is an agreement between the worker / labourer and the employer or the work which contains the terms of work, rights and obligations of the parties*".

As part of the agreement in general, the work agreement both in writing and verbally must meet the legal requirements for an agreement both subjectively and objectively as stipulated in Article 52 of Law No.13 of 2003 which states that:

1. Work agreements are made on the basis of:
 - a. Both side agreement;
 - b. The ability to do legal actions;
 - c. The promised work; and
 - d. The work promised is not in conflict with public order, decency and applicable laws and regulations.
2. Work agreements made by the parties that contradict the provisions referred to in paragraphs 1, letters a and b may be cancelled.
3. Work agreements made by the parties that contradict the provisions referred to in paragraph 1, letter c and d are null and void.

Wages are the price for services that have been received or provided by another person for the benefit of a person or legal entity. In article 1 paragraph 30 of Law No. 13 of 2003 concerning labour, the meaning of wages is the rights of workers / labourers received and expressed in the form of money as compensation of employers or employers to workers / labourers are set and paid by an employment agreement, the agreement or the laws - regulations, including allowances for workers / labourers and their families for a job and / or services that have been or will be made.

The wage system in Indonesia is generally based on three wage functions, namely:

- a. Ensuring a decent life for workers and families;
- b. Reflecting rewards for someone's work;
- c. Providing incentives to encourage increased work productivity.

Wages can be divided into:

1. Provincial Minimum Wage: This is the minimum wage that applies to all regencies or cities in one province. The legal basis for establishing the UMP is the Minister of Manpower and Transmigration Regulation Number 7 of 2013 concerning Minimum Wages. The UMP is determined by the Governor by taking into account the recommendations of the Provincial Wages Council.
2. Regional Minimum Wage: This is a minimum standard used by employers or industry players to provide wages to employees, employees or labourers in their business environment.

The determination of the minimum wage is based on the necessities of a decent living (KHL) recommended by the Provincial Wage Council and approved by the Governor. Wage components include:

- a. Basic salary: This is a Basic Salary paid to workers according to the level or type of work, the amount of which is determined based on agreement.
- b. Fixed allowances: These are payments made to workers that are done regularly and are not associated with the presence of workers or the achievement of certain work achievements (Article 94 of Law No. 13/2003 on Employment)
- c. Non-permanent Benefits: These are a payment that is directly or indirectly related to workers who are provided irregularly and is paid according to a unit of time that is not the same as the time of payment of the basic wage, such as transportation allowances and meal allowances based on attendance.

Based on Government Regulation No. 78 of 2015 concerning wages, decent living needs, hereinafter referred to as KHL is the standard need for a single worker / labourer to be able to live physically fit in 1 month. Since the launching of Law No.13 of 2013 concerning employment, the Government established the KHL Standard as the basis for determining the provincial minimum wage as stipulated in Article 88 paragraph 4.

Regulations regarding the necessities of decent living are regulated in Law No. 13 of 2003 concerning Labour and Presidential Regulation No.78 of 2015 concerning remuneration. More in-depth discussion regarding the provisions of the KHL is set in the Minister of Manpower Regulation No. 21 of 2016 concerning the Need for Decent Living.

The main ideas underlying the formulation of the KHL component are as follows:

- 1) The need for a nutritional balance between carbohydrates and protein.
- 2) More and more women workers are entering the labour market; so they need to accommodate the special needs of women workers.
- 3) The condition of Indonesian people who are religious; so they need to accommodate the need for worship equipment which also requires a fee.
- 4) The need to add several types of needs that are actually used by people at all levels.

In setting the minimum wage, the wage council has a standard of living that is commonly abbreviated as KHL. In setting the standard of living needs, the wage council determines the components as a benchmark in setting the minimum wage in accordance with what is regulated in Law No. 13 of 2003 concerning Manpower. Regarding the KHL provisions, it is regulated in Minister of Manpower Decree No. 17 of 2005 concerning Components and Phasing in Achieving the Needs for Decent Living. However, Minister of Manpower Decree No. 17 of 2005 was revised by Minister of Manpower Decree No. 13 of 2012 concerning Changes in the Calculation of KHL.

Minimum wages are the main benchmarks for how workers can achieve their welfare. Life worthiness, improvement in quality and quantity of life is the key. The difference in KHL regulation through Permenaker Number 13 of 2012 has a significant impact, both substantially and sociologically (as a result in the labour environment). From only 46 components (Permenaker Number 17 of 2005) to 60 components (Permenaker Number 13 of 2012), the labour environment in Indonesia then becomes various conditions.

In its development over the past few years, it turns out that the KHL types regulated in Permenaker No. 17/2005 require changes, adjustments and improvements in the quality and quantity of KHL in accordance with the development of life needs. There are some things that should be of concern in *the content* of Manpower Regulation No. 13 of 2012, which is about the addition of 14 new types of components, adjustments / additional types of quality and quantity of the KHL and changes in needs. The new regulation has a nominal effect on the value added of KHL in 2012. This nominal increase in KHL, in its mathematical calculations, has a difference between 3% to 6% compared to KHL with Permenaker No. 17 of 2005. But this calculation also depends on the situation and condition of the area concerned. Since the enactment of Permenaker No. 13/2012, the impact has been widespread.

Before setting the Provincial Minimum Wage, the Wage Council consisting of representatives of trade unions, employers, the government, and neutral parties from academia will conduct a Decent Living Needs (KHL) survey. But what is meant by the KHL survey? What components of life needs are surveyed and the standardisation mechanism of KHL to determine the Minimum Wage? What is meant by Decent Living Needs (KHL)? Decent Living Needs (KHL) are needs that must be fulfilled by a single worker / labourer to be able to live properly physically, non-physically and socially, for the needs of 1 (one) month.

Since the launch of Law no. 13 of 2003 concerning Manpower, the Government established the KHL as the basis for setting the Minimum Wage as stipulated in article 88 paragraph 4. The regulation concerning KHL, is regulated in Law No.13 of 2003 concerning Labour. A deeper discussion regarding the provisions of the KHL, regulated in Minister of Manpower

No. 17 of 2005 concerning Components and Phasing in Achieving the Needs for Decent Living. However, Kepmenaker No. 17 of 2005 was revised by Kepmenaker No. 13 of 2012 concerning Changes in the Calculation of KHL. The number of types of needs that were originally 46 types in Kepmenaker No. 17 of 2005 became 60 types of KHL in Kepmenaker No. 13 of 2012.

The mechanism for setting the Minimum Wage based on KHL is:

- 1) The Chairperson of the Provincial and / or Regency / City Wage Board forms its members consisting of tripartite elements: trade union representatives, employers, government, and neutral parties from academia.
- 2) KHL value is determined in Kepmenaker No. 13 of 2012, based on these standards, the Wage Council survey team conducted a price survey to determine the KHL price value which would later be submitted to the Provincial Governor.
- 3) Surveys are conducted once a month from January to September, while for October to December predictions are made using the least square method. The monthly survey results are then taken on average to get a KHL value.
- 4) The KHL value will be used as one of the considerations in setting the minimum wage that applies to workers / labourers with a working period of less than 1 (one) year. Wages for workers with a service period of 1 (one) year or more are negotiated in bipartite terms between workers or trade unions and employers in the company concerned.
- 5) Based on the value of the survey price, the Wage Board also considers other factors of productivity, economic growth, the least able business, labour market conditions and advice from the Provincial / Regency / Municipality Wage Board.

Government Regulation Number 78 of 2015 concerning Wages regulates in more detail the problem of minimum wages. According to this Government Regulation, the Governor sets a minimum wage as a safety net. Determination of minimum wages as intended is done every year based on the needs of a decent life and by taking into account productivity and economic growth. The necessities of decent living as intended, are the standard needs of a single Worker / Worker to be able to live physically fit for the needs of 1 (one) month, which consists of several components of the type of living needs. The components referred to and the types of living necessities as referred to are reviewed within a period of 5 (five) years, reads Article 43 paragraph (5) PP No. 78 of 2015. A review of the components and types of necessities of life referred to is carried out by the Minister (Manpower), taking into account the results of studies conducted by the National Wage Council, which uses data and information sourced from authorised institutions in the field of statistics. The Minimum Wage Determination is calculated using the formula for calculating the minimum wage, which is: $UM_n = UM_t + \{UM_t \times (\text{Inflasi} + \% \Delta \text{PDB}_t)\}$ The governor must determine the provincial minimum wage, which is calculated based on the minimum wage calculation formula as intended. In the event that a review of the needs for decent living as intended, the governor

sets the provincial minimum wage by taking into account the recommendations of the provincial wage council. The recommendation of the provincial wage council as intended is based on the results of a review of the needs for a decent living whose components and types are determined by the Minister and with due regard to productivity and economic growth. The governor can set district / city minimum wages, the value of which must be greater than the provincial minimum wage in the province. Provincial and / or district / city sectoral minimum wages are based on the results of the agreement of the employers' association with the trade / labour union in the sector concerned. Determination of sectoral minimum wages as intended is done after receiving advice and consideration regarding the superior sector from the provincial wage council or regency / city wage council in accordance with its duties and authorities. In addition, the sectoral minimum wage must also be greater than the district / city minimum wage in the district / city concerned (<http://setkab.go.id/ini-ketentu-tentang-upah-minimum-dalam-pp-nomor-78-tahun-2015>).

Conclusion

Wages are the benefits received by workers / labourers for the services they provide in the process of producing goods or services in the company. Thus, workers / labourers and employers have a direct interest in the system and conditions of remuneration in each company. Workers / labourers and their families are very dependent on the wages they receive to be able to meet the needs of clothing, food, housing, and other needs. Therefore workers / labourers and trade unions always expect greater wages to improve their standard of living.

This work relationship shows the position of both parties (workers and employers), which basically describes the rights and obligations of workers to employers and also describes the rights and obligations of employers to workers made in a work agreement that outlines the elements of work, wages, time and orders, where the worker has the obligation to carry out work and is also entitled to receive wages and the employer is obliged to give wages and has the right to give orders to workers.

A decent living necessity is proposed by the city wage council by forming a team consisting of government elements, businessmen, labourers and academics as many as 17 (seventeen) people, the City Wage council as the giver of the proposal to determine the Decent Living Needs for the Governor as material for setting minimum wages. The Need for Decent Living according to Government Regulation No. 78 of 2015 concerning wages is only explained in general terms about the calculation of wages and the appropriateness of how well the employees lived for 1 month.



Factors Becoming an Inhibiting Factor in Minimum Wages Based on Government Regulation Number 78 Year 2015 Wages Against the Need for Decent Living in setting the Minimum Wage. This is because the trade unions do not have the same opinion and views, especially with regard to the benchmark determinants of wages with the minimum wage rate proposed by the Government. The Government tends to favour the employer more heavily so that the voice of the workers is often ignored. Because entrepreneurs have economic and social capabilities that result in the government sitting on the wage council, they can be "bought" by the entrepreneur. The seriousness and understanding of employers to the aspirations of the workers is still low, seriousness will be the welfare of the workers who live well is still less noticed by employers. The most obvious example is when in wages the government has the authority to set the city minimum wage through voting in an instant trial it is authorised by the businessmen to protest the difference of views of the two camps and delegate each other's strengths.

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