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# LEGAL IMPLICATIONS ON THE ISSUANCE OF GOVERNMENT REGULATION NO. 36 OF 2021 ON THE WORKER WAGE SYSTEM IN INDONESIA

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***Abstract***

*Wages are something that plays an important role in employment, because wages are a form of appreciation to workers/laborers given by employers for the work that has been done. The purpose of this study is to find out changes in the legal rules regarding the wage system in Indonesia so that workers know how the composition of the calculation used in calculating wages is based on the current legal rules. This research uses normative legal research methods and document study techniques for data collection, as well as legislation and descriptive approaches. The results of this study indicate that this new regulation is aimed at boosting the country's economy and increasing Indonesia's competitiveness in the world by changing the composition of the wage calculation variables and changing the type of wages.*

***Keywords:*** *Legal Change, Remuneration, Worker*

## 1. INTRODUCTION

Indonesia is a constitutional state, this is clearly regulated in the Indonesian constitution, the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (3). As a country governed by the rule of law, everything in Indonesia must adhere to the law. The nation's actions are intended to realize the state's ideals, as outlined in the fourth paragraph of the Preamble to the Republic of Indonesia's 1945 Constitution. One of the ideals of the state is to advance the general welfare of all citizens. One of the parameters of general welfare is the fulfillment of a decent life for all Indonesian people. Providing all Indonesians with a fair standard of living is a criterion of general welfare. To provide a decent life for all Indonesians, every year will present a new challenge that will never cease. This is because the population and labor force continue to increase each year. These two growth variables become tough to overcome since their total growth is not accompanied by employment growth. As a result, the unemployment rate rose and the position of workers, particularly in terms of wages, weakened.

Remuneration are a tangible expression of gratitude to employees for their efforts, hence they play a significant role in employment relations (Soepomo, 1995). Employment relations hinge heavily on wages, which are governed by legally enforceable norms agreed upon by both employees and their respective employers (Husni, 2010). It is common to discover that employees work with the intention of earning money so they can support their families and themselves. This demonstrates that wages and welfare are two things that impact each other, and that within each of these things, there are complicated elements that relate them together (Sudja'i & Mardikaningsih, 2021). Welfare has a dynamic nature, this is because welfare measures are influenced by the necessities of life and one's purchasing power (Gani, 2017).

In Indonesia, the current regulations governing wages are Government Regulation (PP) No. 36 of 2021 concerning Wages. Government Regulation (PP) 36/2021 is a derivative regulation from Law 11 of 2020 concerning Job Creation or also known as the "Omnibus law". Based on Government Regulation (PP) 36/2021 wages are the rights of workers or workers given by employers as compensation in the form of money, which is determined and paid based on work contacts, agreements or statutory regulations which also include benefits for workers and their families.

The regulation regarding remuneration that is currently in effect, namely Government Regulation (PP) 36/2021, is a replacement rule for Government Regulation (PP) 78/2015. These two Government Regulations have quite significant differences where previously in Government Regulation (PP) 78/2015 the minimum wage was set based on decent living needs, taking into account productivity and economic growth. Whereas in Government Regulation (PP) 36/2021 the minimum wage is set based on economic and employment conditions and the district/city minimum wage refers to regional economic growth (Hamdani, 2021). Because of these differences, friction has arisen among the community, especially in a city that has a high Provincial Minimum Wage (UMP) because this regulation allows for a decrease in wages because the minimum wage for a city/regency must refer to regional/provincial economic growth.

In Indonesia, wages for workers will always be a matter of debate since, on the one hand, workers seek wage increases every year and, on the other, employers want to keep employee pay as low as possible to improve their own profit margins. In addition to these issues, there are frequently problems with companies paying salaries that are not in compliance with the relevant legislation. One such instance occurred in Surabaya, when Tjioe Christine Chandra paid wages below the Provincial Minimum Wage (UMP) (Kompas, 2013).

This study aims to analyze the application of workers' wage processes in Indonesia. In this writing, we critically examine what changes have occurred since the enactment of Government Regulation (PP) 36/2021. It is also hoped that current result able to explain critically and in a structured manner regarding the legal implications of Government Regulation (PP) 36/2021 for the workers' wage system in Indonesia?

## 2. RESEARCH METHODS

This paper was written using normative legal research methodologies. Normative legal research was a research based on an interpretive rational concept map which includes elements of rationalism, legal positivism, aprioi analysis, reasoning, coherence, interpretation, literature research, secondary and qualitative data (Barus, 2013). The goal of employing normative research is to emphasize issues that exist during the study of literature and solutions using literary studies connected to these problems in writing (Sarjana, 2020). The approach method used includes the statutory approach, with this method we could analyzes the laws and regulations related to the wage system in Indonesia. Practically and academically the application of the statutory approach in legal research was indeed very useful (Marzuki, 2013). Likewise, we also used the analytical approach to analyze the legal protection of workers in terms of wages in Indonesia. The legal material used was primary legal material, namely Government Regulation Number (PP) 36 of 2021 concerning Wages. This research also uses secondary laws such as; scientific journals, books and theses that have a correlation with current investigation.

This study uses document research techniques by analyzing primary and secondary sources of legal materials. Data management and analysis was carried out in a qualitative descriptive manner. All data was analyzed and then arranged systematically so that it could be described descriptively.

## 3. RESULTS AND DISCUSSION

### 3.1. Changes to the Wage System based on Government Regulation (PP) 36/2021

Since the enactment of Government Regulation (PP) 36/2021, the previous regulation regarding wages, namely Government Regulation (PP) 78/2015, has been declared no longer valid. In this new rule, there are many things that have been updated, some of which have been updated, namely; components of wages, types of wages and minimum wages. Wage components are the parts in the worker's wages which are the workers' rights that must be given (Yetniwati, 2017). the wage component in Government Regulation (PP) 36/2021 consists of 4 (four) items, namely:

- Wages without allowances;
- Basic wages along with fixed allowances;
- Basic wages, fixed allowances and non-fixed allowances;
- Basic wages plus non-fixed allowances

In the previous regulation, namely Government Regulation (PP) 78/2015 point 4 (four) in the wage component in Government Regulation (PP) 36/2021 it is not regulated while in 78/2015 it only regulates the first to third points in Government Regulation (PP) 36/2021. Non-fixed allowance is a payment that can be given directly or indirectly to workers, this allowance can be given to the workers themselves and their families. The emphasis on this allowance is when the allowance itself is given, this allowance is given separately from the basic wage (Fitri, 2019). Non-fixed allowance can be in the form of a transportation allowance or a food allowance, both of which are provided based on the presence of the worker (Fitri, 2019). Furthermore, apart from regulating this matter Government Regulation (PP) 36/2021 also stipulates that workers have the right to receive non-wage income. The non-wage income referred to in Government Regulation (PP) 36/2021 is holiday allowances or what is commonly referred to as THR. Religious Holiday Allowance is non-wage income which is the right of workers to be paid by employers (Vijayantera, 2016). In Article 8 paragraph (1) and Article 9 Government Regulation (PP) 36/2021 it is also explained that the holiday allowance or THR must be given by employers to workers no later than seven days before the holiday. In addition to holiday allowances, employers can also provide workers with other optional non-wage income, namely:

1) Incentive
   Incentive grants to workers as non-wage income can be given when workers occupy a certain position or do a certain job. Matters regarding incentive care are further regulated in accordance with company policy.
2) Bonus
   Giving bonuses to workers is given by employers if the company or employer gets a certain advantage. Matters regarding the awarding of bonuses will be further regulated in more detail in company regulations or collective work agreements or work agreements
3) Money for work facilities

Compensation for work facilities is given to workers if the employer is unable to provide or provide a work facility for the worker. This is further regulated in company regulations or collective labor agreements or work agreements

4) Service fees for certain businesses
The provision of this type of non-wage income originates from funds collected and managed by employers and then distributed to workers after deducting savings funds that will be used in case of loss or damage and will also be used to improve the company's human resources.
Regulations regarding these three matters are actually not all new things in Government Regulation (PP) 36/2021 because in the previous regulation namely Government Regulation (PP) 78/2015 it also regulates this however, Government Regulation (PP) 78/2015 does not regulate intensive as a form of non-wage income.

Further, the new thing contained in Government Regulation (PP) 36/2021 is regarding the type of wages. In Article 13 paragraph (1) Government Regulation (PP) 78/2015 it is explained that wages must be given based on the unit of time on a daily, weekly or monthly basis. Whereas in Government Regulation (PP) 36/2021 this later changed, in Articles 16-19 Government Regulation (PP) 36/2021 it is explained that rewards are given based on hourly, daily and monthly time units. In the case of remuneration based on hourly units of time, it can only be given to part-time workers, remuneration based on hourly units of time can only be given if there is an agreement between the worker and the employer with a note that the wages given cannot be under the calculation formulation as follows : (Prakoso, 2021)

$$Hourly\ Wages = \frac{Monthly\ Wages}{126}$$

Next, in paying wages with a daily scheme, based on Article 17 Government Regulation (PP) 36/2021 it is divided into two calculation schemes, namely:

- Companies that set a working day entry system of 6 (six) days a week, calculate workers' daily wages with the following formula

$$Daily\ Wages = \frac{Monthly\ Wages}{25}$$

- Companies that set a working day entry system of 5 (five) days a week, calculate workers' daily wages with the following formula

$$Daily\ Wages = \frac{Monthly\ Wages}{21}$$

Apart from the type of wages, the new thing contained in Government Regulation (PP) 36/2021 is regarding the minimum wage. The minimum wage itself is the minimum standard used by employers or industry players to provide wages to workers in a business or work environment (Rosandi et al., 2017). Based on Government Regulation (PP) 36/2021, the minimum wage consists of the provincial minimum wage (UMP) and district/city minimum wage (UMK). In terms of using the district/city minimum wage

(UMK), 1 (one) condition must be met, namely, economic growth or inflation in the district/city. Of the 2 (two) types of minimum wages, both UMP and UMK must be based on economic conditions and employment as measured by 3 (three) variables, namely; purchasing power parity / PPP or what is commonly referred to as purchasing power parity, the labor absorption rate (TPT) and the median wage. Matters regarding wages are classified as very different when compared to Government Regulation (PP) 78/2015 where the regulation requires that minimum wages be set based on decent living needs and taking into account economic growth. In addition, Government Regulation (PP) 78/2015 also recognizes the sectoral minimum wage, which is then not regulated in Government Regulation (PP) 36/2021.

In Government Regulation (PP) 36/2021 and Government Regulation (PP) 78/2015 both recognize the terms UMP and UMK, however, these two things are not identical because the use of the formula in determining wages in Government Regulation (PP) 36/2021 and Government Regulation (PP) 78/2015 is very different. It is mandatory for the Governor to determine the UMP in Government Regulation (PP) 36/2021 which will be adjusted annually. The UMP value in Government Regulation (PP) 36/2021 must be between the upper and lower limits of the minimum wage in that province. The upper limit and lower limit values are determined using the following formula:

$$Upper\ limit\ of\ UM_{(t)} = \frac{Average\ per\ capita\ consumption\ (t)\ \times Average\ number\ of\ household\ members}{The\ average\ number\ of\ working\ household\ members\ (t)}$$

$$Lower\ limit\ of\ UM_{(t)} = Upper\ limit\ of\ UM_{(t)} \times 50\%$$

Once the upper and lower limits are known, the UMP value is then determined using the following formula

$$UM_{(t+1)} = UM_{(t)} + \{Max(PE_{(t)} Inflation_{(t)}) \times (\frac{Upper\ limit_{(t)} - UM_{(t)}}{Upper\ limit\ (t) - Lower\ limit\ (t)}) \times UM_{(t)}\}$$

Information:

$UM_{(t)}$ : Minimum wage for the current year
$UM_{(t+1)}$ : The minimum wage to be determined
$PE_{(t)}$ : Provincial economic growth, which must be calculated from the economic growth figures for the 4th (fourth) quarter of the previous year and the first, second and third quarters of the current year (in percent)
$Inflation_{(t)}$: Provincial inflation, which should be calculated from September of the previous year to September of the current year (in percent)
$MAS(PE_{(t)}, Inflation_{(t)}$: The highest value of the economic growth rate or inflation rate

After determining the UMP then, the Governor can determine the UMK if:

- The average economic growth in the regency/municipality for the last 3 (three) years has been higher than the average provincial economic growth; atau
- Economic growth in these regencies/cities for the last 3 (three) years after taking into account inflation has always been positive and higher than growth at the provincial level.

In setting the UMK, the governor had to calculate the relative value of the UMK to the UMP based on the ratio of the PPP (purchasing power parity), TPT (open unemployment rate) and median wage variables. In determining PPP, TPT and Median Wages use the following formula:

1) PPP

$$UMK_{(F1)} = \frac{PPP\ of\ Districts/Cities}{PPP\ Province} \times UMP(t)$$

2) TPT

$$UMK_{(F2)} = \frac{(1 - TPT\ of\ Districts/Cities)}{1 - TPT\ Province} \times UMP(t)$$

3) Median Wages

$$UMK_{(F2)} = \frac{District/City\ Median\ Wage}{Provincial\ Median\ Wage} \times UMP(t)$$

When PPP, TPT and Median Wages have been obtained, the Governor must calculate the average relative value of the MSE with the following formula:

$$UMK_{(t+1)} = \frac{UMK_{(F1)} + UMK_{(F2)} + UMK_{(F3)}}{3}$$

Information

| | |
|---|---|
| $UMK_{(F1)}$ | : UMK value for PPP |
| $UMK_{(F2)}$ | : UMK value for TPT |
| $UMK_{(F3)}$ | : UMK value for the median wage |
| $UMK_{(t+1)}$ | : UMK value to be set |
| $UMP_{(t)}$ | : UMP for the current year |

### 3.2. The Legal Implications on the issuance of Government Regulation (PP) 36/2021 for the Workers' Wage System in Indonesia

The introduction of Government Regulation (PP) 36/2021 on Indonesian positive law has brought about a significant shift in the employment system that is in place in Indonesia. This rule is very obviously not the same as the rules that were in place previously regarding wages. In the previous regulation, namely Government Regulation (PP) 78/2015, the minimum wage calculation system for workers (UMP) was carried out by adding up the current year's minimum wage by multiplying the current year's minimum wage and the amount of inflation and economic growth, as a result of calculating with such a scheme, the minimum wage for workers (UMP) will increase progressively every year. This then changed in Government Regulation (PP) 36/2021, where this rule requires an upper and lower limit for workers' minimum wages (UMP), this will also become a challenge for the government in the future because, in the wage calculation scheme as stipulated in Government Regulation (PP) 36/2021 more variables are used. The variables used cannot use the data available at the central government, but the data used as a calculation variable must use the data available at the local government with the aim of making nominal differences between regions. In other words, when this regulation is passed, each region must have the ability to process data that will be used as a variable in

calculating wages and this will be a very big challenge for each region considering that each region has different resources, hence a regional level regulation is needed to regulate these matters.

In addition, since the enactment of this rule, 2 (two) very contradictory things will occur in social life, both of which are; This rule will ease the burden on employers in making wage adjustments, in other words, employers will have to spend less money in wage adjustments each year, or simply the employer will be more profitable. Then, this will be a contradiction on the part of workers because workers will not get an increase in the minimum wage for workers (UMP) as big as in previous years as stipulated in Government Regulation (PP) 78/2015, this will also cause a slowdown in the growth of the standard of living of the Indonesian people (Kirana, 2021).

In the new rules regarding remuneration based on Government Regulation (PP) 36/2021, there are indeed many new things or variables compared to the previous rules. However, the most important thing that people need to know is that the basis for giving wages themselves is statutory regulations and/or work agreements including company regulations and collective work agreements, provided that the work agreement does not conflict with statutory regulations. If in practice it turns out that the work agreement is contrary to statutory regulations, then the work agreement is declared null and void and remuneration refers to statutory regulations (Rachmad, 2009).

## 4. CONCLUSION

Wages are something that plays an important role in employment, because wages are a form of appreciation to workers/laborers given by employers for the work that has been done. Wages not only affect the welfare of workers, but more than that wages have a very important role because wages affect the welfare of a family and even a country. The development of life is always dynamically changing, so the standard of remuneration must also always be side by side with this. As the ruler of the state, the government has a very important role to ensure that every wage received by society is in accordance with existing developments so that a prosperous country can be achieved. In doing so, the government is often faced with 2 (two) facts, namely; policies that benefit employers/employers or benefit workers. With the formation of Government Regulation (PP) 36/2021 which is a derivative regulation from Law 11/2020 it is clear how the government formed this regulation with the aim that Indonesia has competitiveness in terms of manpower with other countries, so that many world entrepreneurs are interested in opening their businesses in Indonesia. However, it should also be noted that it is not enough for the government to simply make rules and then create a competitive labor market with other countries; the government must also carry out a very strict labor supervision accompanied by trainings that can make every existing and future labor force more skilled; if these things are done well, the state's goal of promoting the wellbeing of its citizens will be achieved.

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