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# LEGAL PROTECTION FOR WORKERS WITH A FIXED-TERM WORK AGREEMENT WHO ARE AFFECTED BY UNILATERAL TERMINATION OF EMPLOYMENT BY THE COMPANY

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## Abstract

Fixed Term Employment Agreement (PKWT) is a form of employment relationship based on a certain period of time or the completion of a job. In practice, there are still many terminations of employment (PHK) of Fixed Term Employment Agreement (PKWT) workers that are not in accordance with legal provisions. Legal protection for PKWT workers who are laid off is regulated in laws and regulations, which emphasize that PKWT cannot be terminated before the end of the contract period except by agreement of both parties or there is a valid reason regulated by law. If the termination of employment (PHK) is carried out unilaterally, workers are entitled to compensation in the form of remaining wages until the end of the contract period and other normative rights. Legal remedies that can be taken by workers who are laid off (PHK) are through bipartite, tripartite negotiations and also filing a lawsuit with the Industrial Relations Court. This protection and legal remedies for dispute resolution aim to provide legal certainty and justice for PKWT workers in dealing with PHK that is not in accordance with laws and regulations.

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## I. INTRODUCTION

Employment law is a regulation relating to the relationship between workers and employers or entrepreneurs. Previously, employment law was referred to as labor law which was translated from Dutch as *arbeidsrecht*. Employment law is a law that regulates the relationship between workers and employers, wages for work performed. Workers are any person who does work to produce goods and/or services either to meet their own needs or for the needs of the community, in Law Number 13 of 2003 concerning Employment in Article 1 paragraph 3 explains that workers/laborers are any person who works by receiving wages or other forms of compensation (Manotar Tampubolon et al, 2023).

An employment relationship is a bond that occurs due to an agreement between the worker and the employer based on the existence of work, wages and orders or directions that must be carried out by the worker. Employment relationships are generally regulated through an employment contract, either in writing or verbally.(Yudith Ilela et al, 2024). In a formal context, employment relationships are subject to the employment laws in force in a country, including provisions on working hours, work

safety, and social security for workers. In general, legal relations between subjects must meet the requirements in the provisions of the Civil Code Article 1320, namely that a valid agreement must meet four valid requirements, namely: (1) agreement of those who bind themselves; (2) capacity to make a contract; (3) a certain thing; (4) a cause that is not prohibited (Indonesia, Article 1320).

An employment agreement is an agreement made by a worker/laborer with an employer or employer that contains the terms of employment, rights and obligations of the parties. The contents of an employment agreement usually include information about salary, working hours, the validity period of the employment contract, and other provisions. Law Number 13 of 2003 concerning Manpower explains that an employment agreement is an agreement in which the worker/laborer binds themselves to the terms of employment, rights and obligations of the parties (Article 1 paragraph 14 No. 13 of 2023). The elements of an employment agreement are:

- a. There is an agreement between the worker/laborer and the employer;
- b. That the worker is under the orders of the employer;
- c. There is a provision of wages from the employer to the worker (Anonymous, Work agreement, nd)

The drafting of an employment agreement must take into account the principle of freedom of contract, which means that both parties, namely the worker and the employer, are free to determine the contents and terms of the agreement as long as it does not conflict with the law, the balance between the interests of workers and employers must be maintained so as not to cause an imbalance of power. Therefore, clarity of content and transparency in negotiations are highly recommended before an employment agreement is agreed upon. An employment agreement must also be made based on the principle of agreement without coercion, and meet the requirements for a valid agreement according to applicable laws and regulations. Both parties are expected to understand and agree to all contents of the agreement before signing the employment agreement. With a clear employment agreement, both parties, namely the worker and the employer, can carry out the employment relationship professionally and can avoid conflict. If there is a violation of the contents of the employment agreement, the injured party can take legal action or resolve industrial relations disputes in accordance with applicable laws and regulations.

Employment agreements when viewed from their time period are divided into two types, namely Fixed Term Employment Agreements (PKWT) and Indefinite Term Employment Agreements (PKWTT). Fixed Term Employment Agreements (PKWT) are employment contracts made by workers with companies to establish employment relationships for a predetermined period of time. In PKWT there are general provisions that regulate the employment relationship between the company and workers such as the rights and obligations of each party, along with positions, wages and other provisions. PKWT has a time limit for employment relationships because workers are not employed permanently but only for a certain period of time. Indefinite Term Employment Agreements (PKWTT)

are employment contracts or work agreements made with an unspecified period of time so that workers are employed permanently. The difference with PKWT which must be made in writing and recorded by the labor office, PKWTT must be made in written form and can be made verbally and is also not required to be recorded at the labor office.

Fixed-Term Employment Agreements (PKWT) are regulated in the Manpower Law such as Government Regulation Number 35 of 2021, namely regulating Fixed-Term Employment Agreements (PKWT), Outsourcing, Working Hours and Rest Time and Termination of Employment (PHK). This Government Regulation regulates various aspects related to employment relationships, including Fixed-Term Employment Agreements (PKWT), outsourcing, working hours, rest and also procedures for termination of employment (PHK). The purpose of this regulation is so that PKWT is not misused by employers or entrepreneurs to avoid the obligation to provide rights that should be received by permanent workers or PKWTT. The term of the Fixed-Term Employment Agreement (PKWT) based on applicable regulations may only be made for a maximum of 5 years. If the employer extends the contract beyond 5 years, the employment relationship status can change to an Indefinite-Term Employment Agreement (PKWTT).

In practice, employment relations or industrial relations do not always run smoothly, often there are misunderstandings that lead to disputes. Disputes in the scope of employment can be referred to as industrial relations disputes, namely differences of opinion that can result in conflict between employers or associations of employers with workers/laborers or trade unions/laborers due to disputes regarding rights, interests, termination of employment, and between unions in one company. Law Number 13 of 2003 concerning Employment explains that industrial relations are a system of relations formed between actors in the process of producing goods and/or services consisting of elements of employers, workers/laborers, and the government based on the values of Pancasila and the 1945 Constitution (Lawonline Team, nd). Based on the background that has been described above, the problems to be studied are formulated as follows:

1. What is the legal protection for workers with a Fixed Term Employment Agreement (PKWT) in cases of unilateral termination of employment?
2. What legal measures can be taken to resolve industrial relations disputes regarding termination of employment for workers with fixed-term employment contracts (PKWT)?

## II. RESEARCH METHODS

This writing uses a normative legal method by studying positive law, namely law that is conceptualized as norms or rules that apply in society, namely by analyzing laws and legal theories. The research specifications in this study use descriptive, namely providing explanations and describing legal phenomena in accordance with existing facts. The data collection techniques used are divided into primary, secondary and tertiary legal materials.

The primary legal material used in this study is using legislation, the secondary legal material used is in the form of legal theories, legal rules through searches on websites in the form of scientific articles, the tertiary legal material used is in the form of a legal dictionary. The approach used by the author is the approach of applicable legislation and regulations.

### III. RESULTS AND DISCUSSION

#### 3.1. Legal protection for workers on fixed-term contracts (PKWT)

Legal protection for workers is an important aspect of the employment system that aims to guarantee basic workers' rights and also to create a fair and safe working environment. Employment laws and regulations play an active role in ensuring that workers do not become victims of exploitation, discrimination or violations of rights committed by employers or companies. Legal protection for workers includes various things such as guarantees of decent wages, reasonable working hours, the right to leave and also social security. Legal protection for workers is regulated in Law Number 13 of 2003 concerning Manpower and updated through Law Number 11 of 2020 concerning Job Creation. This law explains various provisions governing employment relationships, such as work requirements, termination of employment (PHK), employment social security, and also occupational safety and health (K3). The government also forms a labor supervisory agency tasked with monitoring the implementation of regulations in a company or business entity.

Legal protection is a protection given to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. Legal protection as a description of the function of law, namely regarding the concept of law can provide justice, order, benefit and peace. The form of protection, maintenance and improvement of welfare is carried out in the form of basic social security for workers based on joint efforts, family carried out in mutual cooperation as contained in Pancasila and the 1945 Constitution (Harahap, 2019). Protection of workers in the 1945 Constitution in the provisions of Article 27, the position of workers is the same as that of employers or entrepreneurs, but in terms of socio-economic status, the two are not the same (Makadolang et al, 2024).

Legal protection arises because there was previously an employment relationship, an employment relationship is a relationship between workers and employers that occurs after an employment agreement, namely an agreement where workers declare their willingness to work for the employer or company, and the employer or company declares their willingness to employ workers and pay wages for the work done by workers (Harahap, 2019). An employment agreement is a bilateral agreement agreed upon by employers and workers/laborers, and has legally binding characteristics and cannot be canceled or changed, unless there is mutual agreement from the interested parties. Termination of an employment agreement can occur if as follows:

- a. Labor death;
- b. Reaching the contractual temporal limit;

- c. Judicial decisions and/or resolutions from industrial relations dispute resolution institutions that have obtained final legal force; or
- d. The emergence of specific conditions or events expressed in the employment agreement clause that have the potential to terminate the employment relationship (Gunawan et al, 2021).

Legal protection for workers with a Fixed Term Employment Agreement (PKWT) is to provide certainty for workers who carry out work within a specified time, employers are given the opportunity to apply it for work that is limited in time, so that employers can also avoid the obligation to appoint permanent workers/laborers to carry out work that is limited in time. Law Number 13 of 2003 concerning Manpower in Article

Article 59 paragraph 1 explains the categories of work in a Fixed Term Employment Agreement (PKWT), namely: a) work that is completed once or is temporary; b) work that is estimated to be completed not too long and a maximum of 5 years including extension periods; c) seasonal work; d) work related to new products, new activities, or additional products that are still in the trial period (Yudith Ilela et al, 2024).

Government Regulation Number 35 of 2021 concerning Fixed-Term Agreements, Outsourcing, Working Hours and Rest Hours, and Termination of Employment is an implementing regulation of the Job Creation Law which specifically regulates Fixed-Term Employment Agreements. Based on Articles 4 and 5 of Government Regulation Number 35 of 2021, Fixed-Term Employment Agreements can be classified into 3 types, namely:

1. PKWT is based on a time period, namely it is made for work that is estimated to be completed within a period of time that is not too long (a maximum of five years), seasonal work whose implementation depends on the season or weather or certain conditions, work related to new products, new activities or additional products that are still in the experimental stage.
2. PKWT is based on the completion of a certain job, made for work that is completed once or work that is temporary in nature.
3. PKWT which can be implemented for certain other jobs whose type and nature or activities are not permanent, in the form of certain jobs which change in terms of time and volume of work and payment of wages for Workers/Laborers based on attendance.

In a Fixed Term Employment Agreement there are obligations that must be carried out by both workers and employers or entrepreneurs. The obligations of PKWT workers are to work in accordance with the agreement that has been agreed upon, to be responsible for maintaining the confidentiality of company information, to comply with company rules and policies, workers must also maintain their own safety and that of others in the work environment. The company's obligation is to provide salaries in accordance with the agreement that has been previously determined, the company has a responsibility to provide a safe work environment for workers. The rights of workers in a Fixed Term Employment Agreement (PKWT) are in the form of:

1. Wages and benefits, workers are entitled to wages in accordance with the previously agreed work agreement, including previously agreed benefits.
2. Social security, even though this employment status has an agreement with a certain time, workers still have the right to receive social security such as health insurance, work accident insurance in accordance with statutory provisions.
3. Annual leave, Fixed Term Employment Agreement workers have the right to receive annual leave every year.
4. Working hours, companies are required to comply with the provisions regarding maximum working hours in one day and overtime limits stipulated by employment laws.
5. Legal protection, if a dispute occurs between workers and the company, workers have the right to obtain legal protection through the labor dispute resolution mechanism (Anonymous, nd).

### **3.2. Legal efforts in resolving industrial relations disputes regarding Fixed Term Employment Agreements (PKWT)**

Efforts to resolve industrial relations disputes are an important step to maintain stability and justice in the relationship between workers and employers. Disputes often occur due to disagreements regarding the reasons or processes for termination of employment. Therefore, a fair and legal settlement is needed to protect the rights of workers and employers. The legal basis for resolving industrial relations disputes is Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, by prioritizing the principles of deliberation and justice. Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes in Article 1 number 4 explains that termination of employment is a dispute that arises due to the lack of agreement regarding the termination of employment carried out by workers or employers. The elements that form a dispute over termination of employment are:

- a. There is no conformity of opinion;
- b. Termination of employment relationship;
- c. Done by one of the parties.

There are four types of industrial relations disputes, namely:

- a. Rights disputes are disputes that arise due to non-fulfillment of rights resulting from differences in implementation or interpretation of provisions of laws and regulations, employment agreements, company regulations or collective employment agreements;
- b. A conflict of interest is a dispute that arises in an employment relationship due to a lack of agreement regarding the creation or change of work conditions stipulated in an employment agreement or company regulations, or a collective agreement;
- c. Disputes over termination of employment are disputes that arise due to a lack of agreement regarding the termination of employment by one of the parties;

- d. Disputes over termination of employment between trade unions or labor unions are disputes between trade unions/labor unions in one company due to differences of opinion regarding membership, implementation of rights, and obligations of the labor union.

According to Law Number 13 of 2003 concerning Manpower, termination of employment is the termination of employment due to a certain reason that results in the termination of rights and obligations between workers/laborers and employers. Termination of employment is the last option to save the company, in the Manpower Law it is regulated that companies may not arbitrarily terminate employment of workers/laborers, unless the worker/laborer is proven to have committed a serious violation and is declared by the court that the worker/laborer has committed a serious mistake, which court decision has permanent legal force (Maringan, 2015). The mechanism for resolving industrial relations disputes is regulated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. The aim is to provide a fair, efficient and legal solution for workers and employers involved in labor conflicts. The stages of resolving industrial relations disputes consist of:

- a. Bipartite negotiations

Bipartite negotiations are negotiations between employers or a combination of employers and workers or between trade unions in one company that are in dispute. Efforts that must be made first if a dispute occurs are through bipartite negotiations by deliberation to reach a consensus. Bipartite negotiations are resolved within a maximum of 30 days if within that period one party refuses to negotiate or does not reach an agreement, then the bipartite negotiations are considered to have failed. Bipartite negotiations that reach an agreement or are successful, then a joint agreement is made which is signed by the parties. This joint agreement is binding and becomes law so that it must be implemented by the parties. The joint agreement must be registered with the Industrial Relations Court at the District Court in the area where the parties entered into the joint agreement. Thus, if the joint agreement is not implemented, the injured party can submit an application for execution to the Industrial Relations Court (Munawaroh, 2025).

- b. Tripartite negotiations (mediation, conciliation, arbitration)

If no agreement is reached in bipartite negotiations, then tripartite negotiations are carried out, namely by involving a third party who can provide suggestions or solutions based on existing data or even make decisions if agreed upon by all parties. The forms of tripartite negotiations are:

1. Mediation, mediation carried out in cases of industrial relations disputes is carried out by means of deliberation mediated by a neutral mediator, the mediator comes from the office of the agency responsible for the field of employment. If the mediation reaches an agreement, a joint agreement is made which is signed by the parties concerned and witnessed by the mediator and then registered with the Industrial Relations Court at the

District Court in the area where the parties made the joint agreement to obtain a deed of proof of registration. If the joint agreement is not carried out by one of the parties, then the injured party can file an execution application to the Industrial Relations Court. Mediation that does not reach an agreement, the mediator will issue a written recommendation and the parties must provide a written response to the mediator to approve or reject the written recommendation. If in this case it is not done or does not provide a response, it is considered to reject the written recommendation. If the parties agree to the written recommendation from the mediator, then within a maximum of 3 working days, the mediator will help the parties make a joint agreement and register it with the Industrial Relations Court. Meanwhile, if the parties or one of the parties rejects the written recommendation, they can file a lawsuit with the Industrial Relations Court.

2. Conciliation, industrial relations conciliation is the settlement of disputes of interest, disputes over termination of employment or disputes between labor unions through deliberation mediated by one or more neutral conciliators. If the conciliation reaches an agreement, a joint agreement is made which is signed by the parties and witnessed by the conciliator, the joint agreement is registered at the Industrial Relations Court where the joint agreement was made. Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes in Article 23 relating to the registration of joint agreements, namely joint agreements that have been registered are given a deed of proof of registration, if the joint agreement has been registered but not implemented, the injured party can file an execution to the Industrial Relations Court, this shows that the registered joint agreement has executory power.
3. Industrial relations arbitration is the settlement of disputes of interest and the settlement of disputes between labor unions in only one company outside the Industrial Relations Court through a written agreement from the disputing parties to submit the settlement of the dispute to an arbitrator whose decision is binding on the parties and is final. The arbitrator must resolve the industrial relations dispute within 30 working days from the signing of the arbitrator appointment agreement. The initial stage of the arbitrator's trial has an obligation to reconcile the disputing parties. If peace is achieved, the arbitrator has the task of making a peace deed signed by the parties and the arbitrator. The peace deed is registered at the Industrial Relations Court at the District Court in the area where the arbitrator made the peace. The peace deed that has been registered at the Industrial Relations Court has executorial power. If the peace deed is not executed by one of the parties, then the injured party can file an execution application to the Industrial Relations Court at the District Court in the area where the peace deed is registered to obtain an execution determination. If the peace effort fails, the arbitrator will continue the arbitration

hearing. The arbitration decision is determined based on applicable laws and regulations, agreements, justice, and public interest. The arbitration decision has legal force that binds the disputing parties and is a final and permanent decision. The industrial relations arbitration decision is registered at the Industrial Relations Court at the District Court in the area where the arbitrator determined the decision. If the arbitration decision is not implemented by one of the parties, then the injured party may file a request for fiat execution at the Industrial Relations Court at the District Court whose jurisdiction covers the domicile of the parties against whom the decision must be implemented, so that the decision is ordered to be implemented. This order must be given no later than 30 working days after the application is registered with the Clerk of the local District Court. The arbitration decision can be canceled by filing a request for cancellation of the arbitration decision with the Supreme Court no later than 30 working days from the determination of the arbitrator's decision. This request for cancellation can be submitted if the industrial relations arbitration decision is suspected of containing the following elements:

- a. Letters or documents submitted in the examination, after the verdict has been rendered, are acknowledged or declared to be false;
  - b. After the decision was made, a document of a decisive nature was found, which was hidden by the opposing party;
  - c. The decision was taken from the trickery carried out by one of the parties in the examination of the dispute;
  - d. The decision exceeds the authority of the industrial relations arbitrator;
  - e. The decision is contrary to statutory regulations (Budiono, nd).
4. Industrial Relations Court, if the settlement through negotiation, mediation, conciliation, arbitration is unsuccessful or does not reach an agreement, then the injured party can file a lawsuit with the Industrial Relations Court. The Industrial Relations Court functions to resolve disputes that occur between employers and workers or labor unions.

#### **IV. CONCLUSION**

Fixed Term Employment Agreement (PKWT) is a form of employment relationship based on a period of time or the completion of a certain job. If there is a termination of employment (PHK), workers with a Fixed Term Employment Agreement (PKWT) have legal protection as regulated in laws and regulations. PKWT cannot be terminated unilaterally before the end of the work period, unless there are special conditions regulated by law. If the employer terminates employment (PHK) before the end of the contract period without a valid reason, the worker is entitled to receive the remaining wages until the end of the contract period and compensation as regulated in laws and regulations.

Termination of employment that is not in accordance with procedures, PKWT workers can take several legal efforts such as Bipartite, Tripartite and also through the Industrial Relations Court (PHI) to obtain a binding legal decision. In addition. Workers can also report normative violations to the labor inspector.

Legal protection for workers with Fixed Term Employment Agreements (PKWT) has been comprehensively regulated through laws and regulations. The mechanism for resolving industrial relations disputes has also been regulated in laws and regulations to ensure that workers' rights are protected. Therefore, it is important for workers with Fixed Term Employment Agreements (PKWT) to understand their rights and the legal pathways that can be taken if they experience termination of employment (PHK) that is not in accordance with the provisions of laws and regulations in order to obtain justice and legal certainty.

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