



EMPLOYMENT LAW PROTECTION FOR ARRANGEMENTS OF SECURITY INSTITUTIONS BY EMPLOYERS/BUSINESS ENTITIES

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Article history:	Abstract:
Received: 6 th January 2023 Accepted: 6 th February 2023 Published: 11 th March 2023	The Law No. 24 of 2011 on Social Security Institutions (BPJS) mentions in Article 19 Paragraph (1) and (2) that the employer must collect the premium from their employees and remit it to BPJS. If the company does not remit the premium BPJS Employment, BPJS Employment must collect and impose sanctions on the company. In the process of settling gains of social security premiums, the state must make legal protection efforts for workers as participants in Employment BPJS. The purpose of this research is to analyze the settlement of overdue social security premiums by Employment BPJS and the legal protection of workers in the process of settling arrangements by Employment BPJS. The research method used in this research is normative juridical research. Based on the research results, it can be obtained that the legal protection of workers is provided when the Employer/Business Entity earns Employment BPJS premiums. This is done to provide a sense of security for workers as explained in the Legal Protection theory. However, there is a need for efforts from law enforcers to monitor and impose sanctions on employers/business entities who violate and deliberately do not pay Employment BPJS premiums.

Keywords: Legal Protection, Manpower, BPJS Employment .

INTRODUCTION

In Constitution Number 13 of 2003 concerning employment mention that every workers / labourers and their families entitled For obtain guarantee social power work . For get guarantee social employment , power Work must register self or registered by the giver Work to the Organizing Body Employment Social Security (BPJS Employment) with pay percentage fees _ Already set in regulation Legislation . Company as giver Work must register self or worker his company as Employment BPJS participants in accordance with mandate Article 15 of the Law Number 24 of 2011 concerning the Organizing Body Social Security (next referred to as the BPJS Law), besides carry out task as citizens , also provide benefit protection social for everyone involved in the company .

Article 17 of the BPJS Law, each giver Work must pick up dues from workers , added dues to be obligations and pay dues the to the Organizing Body Social Security (BPJS) on an ongoing basis periodically . Article 19 of the BPJS Law also orders that the giver Work pick up dues from workers , too oblige giver Work pay and deposit dues to be not quite enough he replied to BPJS.

In implementation payment dues this company can experience Lots constraint especially in matter finance . So that in implementation company can pick up dues from employees and not deposit it to Employment BPJS . A number of some companies do n't pick up dues from workers , so they No Can to blame Because embezzle money from the workers . However company still considered do error Because company Already required cut wages employee For pay Employment BPJS contributions and errors second is Neither does the company deposit dues The same very to Employment BPJS .

If the company No deposit Employment BPJS contributions , then Employment BPJS must charge and deliver penalty to company . However before given sanctions , Employment BPJS will do stages in gift penalty in accordance with provision Minister of Manpower No. 4 of 2018 concerning Procedures for Imposition and Revocation Penalty Administrative No Get Certain Public Services For giver Work Besides State Officials . Penalty to giver Work or company started with he gave penalty administrative Where company will get reprimand written , a fine ; and/ or , no get service public certain . Companies can too imposed penalty criminal Where violating company _ provision as meant in Article 19 paragraph (1) or paragraph (2) of the BPJS Law shall be punished with criminal maximum imprisonment of 8 (eight) years or criminal a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

Along the more increasing case deployment Covid-19 participate impact on stability internal economy . The difficulties experienced by the sector business during pandemic participate felt by companies big until small so that impact on termination connection work (layoffs) on workers , reduction workers to look after stability financial cash flow company (cash flow). Condition like This make giver Work or the company is also in arrears Employment BPJS

contributions and impact on protection guarantee social employment worker .
 Based on description above , then writer interested For deepen more away and analyze about settlement arrears contributions to BPJS Employment and efforts protection law for power work .

METHOD

Type research used in study This is study juridical normative , meaning that all the problems studied in study This always refers to the review in a manner law , fine in a manner normative nor based on views from expert law and also included in scope dogmatic studied law or researching rules law . Knowledge law dogmatic own character "sui generis". In study qualitative man is instrument research and results writing in the form of words or appropriate statement with circumstances actually . Existing object Then researched with approach the problem consists from :

1. Approach Legislation (statute approach);
 Approach legislation done with study all relevant laws and regulations cant with issue moderate law _ handled
2. Approach conceptual (conceptual approach).
 Approach conceptual leave from the views and doctrines that developed within knowledge law , with learn views and doctrines within knowledge law , researcher find ideas that give birth understandings law , concepts law , and principles law relevant with issues faced .
3. Approach case (case approach);
 one type approach in study law normative researchers _ try build argument law in perspective case happening concrete _ in the field , of course case the tightly relation with case or incident laws that occur in the field .

For complete study law normative , the author also does study law empirical (research field) which is deep study field this is what you are looking for is customs , agreements , law enforcement, as well awareness law . In study law empirical This will seen the facts inside something society , legal entity or government agency For see How law run in society .

Employment BPJS Social Security Program

1. Guarantee Accident Work (JKK)
 Guarantee Program Accident Work is benefit in the form of cash and / or service health provided at the time participant experience Accident Work or disease caused by the environment work . Dues paid by the giver paid work (for participant recipient wages) , depending on the level risk environment work , which amount evaluated at most 2 (years) once , and refers to the table as following :

No.	Work Environment Risk Level	Percentage Amount
1	Very Low Risk Level	0.24% of a month's wages
2	Low Risk Level	0.54% of a month's wages
3	Moderate Risk Level	0.89% of a month's wages
4	High Risk Level	1.27% of a month's wages
5	Very High Risk Level	1.74% of a month's wages

2. Guarantee Death (JKM)
 Guarantee death is Give cash benefits provided to expert inheritance when participant died isn't it consequence accident work . For participant recipient wages or wages of 0.30% (zero coma three twenty percent) of wages or wages month .
3. Old Age Guarantee (JHT)
 Old Age Guarantee is an organized protection program with objective For ensure that participants accept cash if entering retirement age , experiencing permanent total disability , or died . The dues of 5.7% (Five point Seven percent) of wages or wages month .
4. Guarantee Pension (JP)
 Guarantee Program Pension Guarantee pension is guarantee social goals For maintain degrees decent life for participants and/ or expert his heir with give income after participant enter age retired , experienced permanent total disability , or died . Guarantee program contributions pension counted by 3% , consisting above 2% dues giver work and 1% dues worker from wages every month .
5. Guarantee Lost Occupation (JKP)
 Guarantee Lost Work is Guarantee provided to experienced workers / laborers termination connection Work with objective maintain degrees decent life at the time worker lost job . Worker can fulfil need base decent life moment happen risk consequence termination connection Work while try get work back .

Reason Happening Arrears Employment BPJS contributions

Mandatory company do payment Employment BPJS contributions in a manner routine . Payment dues the done in a

manner monthly periodic to Employment BPJS . arrears payment dues will caused No apply service or the benefits you get accepted by workers . when it happened accident work inside period arrears happen or in the period company Not yet pay the dues so worker No can claim treatment or home care _ Sick consequence accident Work the . With No fulfillment workers ' claims so in a manner direct workers harmed .

Employment BPJS contributions must paid no later than the 15th of each month . Lateness payment will imposed 2% fine for every month delay . Companies that don't pay BPJS contributions arrived with 3 months successively , then the workers No Can do claim on whole benefit from Employment BPJS until with the Company did repayment dues in arrears .

In implementation companies that don't pay Employment BPJS contributions Still Enough many and their average constrained with problem finance . The more difficult company operate wheel operational so the more big burden company For carry out his obligations .

Factors and problems that cause emergence arrears contributions to BPJS Employment , several factor the among others:

1. Lack of awareness giver Work to obligation and importance guarantee social employment
2. Many companies new yet stable financially because A little get project .
3. Condition finance medium company hard .
4. Company already closed or move address but No report to the Employment BPJS .
5. provider company service outsourcing (expert power) is waiting thawing from user services , so late pay Employment BPJS contributions .
6. Less firm imposition sanction by the Department of Manpower to giver no work _ fulfil obligation pay Employment BPJS contributions .

In problem company in arrears payment , supervisor entitled For check and supervise company the with method look for know the truth that happened will because Why until company the can in arrears BPJS Employment contributions that have been become his obligations . Every company own reasons respectively however policy stay policies that must be followed . No There is other efforts that can be done besides pay off arrears dues , but Employment BPJS through inspecting supervisor direct circumstances and companies as well as attitude cooperative company can give effort relief in do repayment , attempt repayment the can do once periodically or in installments so that company No too heavy For pay off direct burden existing arrears .

Completion Arrears Contribution By Employment BPJS

Employment BPJS do billing on accounts receivable Fees and/ or accounts receivable Fine to giver Work in accordance provisions that apply to BPJS Ketenaga work . accounts receivable Fees and/ or accounts receivable Fine as meant categorized :

- a. accounts receivable smoothly ;
- b. accounts receivable not enough smoothly ;
- c. accounts receivable doubtful ; And
- d. accounts receivable stuck .

For accounts receivable Fees and/ or accounts receivable Fine category receivables current and accounts receivable not enough smooth , the billing process carried out by the BPJS Employment work unit that implements it function finance . For accounts receivable Fees and/ or accounts receivable Fine category receivables doubtful and receivable stuck , the billing process carried out by the BPJS work unit executing work _ function supervision and inspection .

Organizing Agency Regulations Guarantee Social employment number 1 of 2019 About change on organizer guarantee social employment 1 of 2014 regarding procedures _ _ supervision and inspection on obedience in guarantee program administrator social employment as stated _ in Article 4 ie related with provision regarding procedures _ maintenance education and training , appointment , cards legitimacy officer examiner , clothes uniforms , attributes , and allowances special for officer examiner as meant in Article 3 is regulated with regulation BPJS Employment board of directors .

Supervision is also included in Article 11 ie supervision and inspection obedience as meant in Article 2 is done For ensure giver Work Besides State Organizers , and everyone , apart from giver workers , workers , and recipients help dues obey to his obligations . Supervision and inspection obedience as referred to in paragraph (1) is carried out via :

- a. Check , and/ or
- b. Inspection Field

Inspection virgin as referred to in paragraph (2) letter a is carried out based on the data obtained from internal BPJS Employment, reports community , and/ or agency related . Inspection field as referred to in paragraph (2) letter B shall be carried out :

- a. as follow carry on from data check as referred to in paragraph (3); or
- b. Based on report society , workers , unions workers , and/ or agency related Because exists guess violation on implementation of the guarantee program Social Employment .

Based on results interview with Mr. Bonifa Refsi Officer Supervisors and Examiners of the South Tangerang Branch of Employment BPJS , Officers examiner do Inspection to giver Work in arrears Dues For request description and check document related Disobedient giver Work in implementation of the guarantee program Social Employment .

Inspection to giver Work in arrears Fees made by Officers _ Branch Examiner can accompanied by the Field / Officer Membership , Field / Officer Finance , Officer District Inspector , Officer Examiner at Head Office, and/ or agency Authorized . Officer examiner can disable Employment BPJS membership giver work , if based on results Inspection found condition as following .

- a. giver Work disperse that _ physique nor licensing Already No yes / no apply Again in accordance letters / documents from agency Authorized or letter from giver work .
- b. giver Work is lost address or Already No is at again at the address back and no is known address recently proven _ with results Examination and known by one witness _ from internal parties and/ or party external , like administrators of RT, RW, Kelurahan , or agency Authorized .
- c. giver Work bankrupt in accordance with decision court .
- d. giver Work in a manner physique nor licensing Still there is , but No There is activity proven effort _ with results Examination and known by one witness _ from internal parties and/ or external .

then :

- a. Officer examiner look for information related team manager or appointed curator _ in deal with process delays obligation payment of debt or bankruptcy .
- b. Officer examiner do communication and coordination to team manager or curator related receivables dues from giver Unfinished work _ deposited to Employment BPJS .
- c. For inspection process or litigation in court handled by officers examiner .
- d. In matter there is condition amount owed by creditors No acknowledged and approved by the curator , Officer examiner can coordinate with Deputy Director Field Compliance and Legal.

Imposition penalty criminal given to giver Work with type Disobedient giver Work in arrears Dues . In matter giver Work No follow up on THP that has been published , Officer examiner can report giver Work to agency Authorized about his disobedience in pay fee .

Penalty For Delinquent Companies Employment BPJS contributions

If the company No deposit Employment BPJS contributions , then Employment BPJS must charge and deliver penalty to company . However before given sanctions , Employment BPJS will do stages __ in gift penalty in accordance with provision Minister of Manpower Number 4 of 2018 concerning Procedures for Imposition and Revocation Penalty Administrative No Get Certain Public Services For giver Work Besides State Officials .

Penalty to giver Work or company started with he gave penalty administrative Where company will get reprimand written , a fine ; and/ or , no get service public certain based on Regulation Government (PP) Number 86 of 2013 concerning procedures imposition penalty administrative to giver Work besides state administrators and everyone , apart from giver workers , workers , and recipients help dues in maintenance guarantee social and Permenaker Number 4 of 2018.

After Employment BPJS carry out penalty as mentioned _ in Minister of Manpower , the company can also imposed penalty criminal Where violating company _ provision as meant in Article 19 paragraph (1) or paragraph (2) shall be punished with criminal maximum imprisonment of 8 (eight) years or criminal a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

Labor Law Protection In Process of Completion Arrears By Employment BPJS

According to satjipto Rahardjo , protection law is give protection to right basic human being harmed by others and protection the given to society for them can enjoy all rights granted by law _ or in other words protection law is various effort mandatory law _ given by the authorities enforcer law For give a sense of security , good in a manner thought nor physique from glitches and various threat from party anywhere .

giver Work besides delinquent state officials JKK dues arrived with 3 (three) months successively and happening Accident Work or disease consequence work , Employment BPJS must pay JKK benefits as follows meant in Article 25 paragraph (2) to Participant or expert his heir . giver Work besides delinquent state officials JKK dues are more than 3 (three) months successively and happening Accident Work or disease consequence work , Giver Work besides mandatory state administration pay especially formerly JKK benefits as follows meant in Article 25 paragraph (2) to Participant or expert his heir . In matter giver Work besides state officials as referred to in paragraph (2) has pay off whole arrears Fees and fines that become obligation , then giver Work besides state officials can request replacement to Employment BPJS .

giver Work besides delinquent state officials JKM contributions arrived with 3 (three months consecutive and Participant died isn't it Because Accident Work or disease consequence work , Employment BPJS must pay JKM benefits as meant in Article 34 to expert heir . giver Work besides delinquent state officials More JKM contributions than 3 (three) months consecutive and Participant died isn't it Because Accident Work or disease consequence work , Giver Work besides mandatory state administration pay especially formerly JKM benefits as meant in Article 34 to expert heir . In matter giver Work besides state officials as referred to in paragraph (2) has pay off whole arrears Fees and fines that become obligation , then giver Work besides state officials can request replacement to Employment BPJS .

To giver no work _ give right the workers will get penalty administrative as arranged in PP No. 44 of 2015 Article 59. Sanctions administrative in the form of a warning written ; fine ; and/ or No get service public certain . giver penalty is a service unit public specific to the agency Government , government area province , or government area district / city .

Article 20 Regulation of the Minister of Manpower Number 4 of 2022 concerning Procedures and Requirements Payment Benefit Old Age Guarantee mention that for Participants who submit application payment JHT benefits and has fulfil condition document , however Still there is arrears dues then Employment BPJS can pay JHT benefits to Participant as big dues that have paid by the giver work and participants to Employment BPJS following results its development . Arrears unpaid dues _ paid , billed by BPJS Employment to giver work . In matter arrears dues has paid by the giver work , Employment BPJS must pay lack JHT benefits to Participant or expert inheritance Participants .

Article 16 Regulation of the Minister of Manpower Number Number 29 of 2015 concerning Registration Procedures

Membership , Payment and Termination Benefit guarantee Pension mention that in matter giver Work in arrears fees and participants has enter Age pension , giver Work must pay off arrears dues in no later than 3 (three) months since submission . giver work that has been pay off arrears dues as referred to in paragraph (1), participants can accept benefit Pension with calculating the due period from arrears dues paid . _ If giver Work No pay off dues as meant paragraph (1), benefits Pension paid without calculating the due period from arrears Unpaid dues _ paid off . In matter giver Work No pay off Dues as meant paragraph (3), difference benefit Retirement should _ become right Participant , stay must paid by the Giver work .

Article 39 PP 37 of 2021 states that delinquent businessman _ JKK and JKM contributions as source JKP program funding arrived with 3 (three) months successively and happening Termination Connection work , Employment BPJS must pay cash benefits _ as meant in Article 21 paragraph (1) to participant . In terms of Employment BPJS has pay cash benefits _ as referred to in paragraph (1) then Businessman must pay off arrears fee .

Delinquent businessman _ JKK and JKM contributions as source JKP program funding is more than 3 (months) in a row and occur Termination Connection work , Entrepreneur must pay especially formerly cash benefits _ to Participant as meant in Article 21 paragraph (1). In matter Businessman has pay off whole arrears dues and fines that become duty , entrepreneur can request replacement cash benefits that have _ paid as referred to in paragraph (3), to Employment BPJS . Businessman submit request replacement cash benefits _ to BPJS Employment no later than 3 (three) months since Businessman pay right participant .

Impulse case

The process of settling arrears of contributions to the employment social security program by Employment BPJS carried out by way of supervision, as stated in the Employment Social Security Administration Agency Regulation number 1 of 2019 concerning changes to employment social security organizers Number 1 of 2014 concerning procedures for supervision and inspection of compliance in administering the employment social security program that supervision is carried out to ensure Employers Apart from that, state organizers comply with their obligations. Supervision and compliance checks are carried out through data checks, and/or field checks. Field inspections are carried out based on reports from the public, workers, trade unions, and/or related agencies due to alleged violations of the implementation of the Employment Social Security program.

Employers other than state officials who are in arrears for more than 3 (three) consecutive months must pay in advance the benefits of the five Social Security programs they participate in, namely Work Accident Insurance (JKK), Death Insurance (JKM), Old Age Security (JHT). , Pension Benefit (JP), and/or Job Loss Benefit (JKP).

Employers who do not provide their workers' rights will receive administrative sanctions as follows arranged in Regulation Government (PP) Number 44, 45, and 46 of 2015 and PP 37 of 2021 concerning Administration Program Guarantee Accident Work , Guarantee Death , Old Age Guarantee , Guarantee Pensions and Guarantees Lost Job . Administrative sanctions in the form of written warning; fine; and/or do not receive certain public services. Sanction givers are certain public service units in government agencies, provincial regional governments, or district/city regional governments on recommendation from Employment BPJS .

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