

## SUMMARY OF GOVERNMENT REGULATIONS DRAFT OF EMPLOYMENT TERMINATION COMPENSATION SECURITY PROGRAM

The government's plan to issue a set of regulations on Employment Termination Compensation Security Program could be realized in the near future. It is said that the final draft (as of 29 October 2007) of the Government Regulations Draft (*Rancangan Peraturan Pemerintah* or "RPP") has been submitted to State Secretary for President's signature.

Basically, the RPP would make it compulsory for all companies to fund liabilities on severance, service and compensation payments as regulated by Law Number 13/2003 ("UU-13/2003" or the Labor Law).

As the previous draft of RPP has gone through many changes since it was first introduced almost a year ago, it is probable that this final draft of RPP would still go through some more changes. However, these changes might not change the overall substance. A summary of important points in the 16 (sixteen) chapters of this draft of RPP is shown below.

No.	Substance	Provision and Explanation
1.	Employment Termination Compensation Security Program ( <b>PJK-PHK</b> )	A program that provides protection on the rights of an employee/worker in the cases of employment termination.
2.	Participation	<b>Compulsory</b> for all companies .
3.	Plan Provider	<b>Jamsostek or life insurance company or Financial Institution Pension Fund (DPLK)</b> .  Life insurance company and DPLK may be appointed only if such providers give <b>better</b> benefit/protection than Jamsostek.  <b>Better</b> benefit/protection includes the amount of benefit/protection and/or the amount of provider fees .
4.	Arrangements of <b>PJK-PHK</b>	Based on Fund Reserves method.  In the cases of employment termination caused by <b>death, prolonged illness, or work accidental disability</b> can be done through insurance plan.  <b>Work accidental disability</b> is disability due to a work accident that results in the employee/worker's being not able to perform his /her job after a period of 12 months .
5.	Fund Reserves	<b>A regular accumulation of fund</b> by company, managed as a <b>separate fund</b> from company's assets, aimed at <b>partially</b> or <b>compeletely</b> meeting company's liabilities on severance, service and compensation payments to employees/workers.
6.	Prohibition to use Fund Reserves	Fund Reserves <b>may</b> not be lent to or placed as investment in a company and/or individuals affiliated to member of board of comissioner, board of directors, 1 (level) below board of directors of Plan Provider and family relatives down and/or up to two vertical and horizontal levels in the family tree, including in-laws.

No.	Substance	Provision and Explanation
7.	Segregation of Assets	Fund Reserves and any investment returns <b>are to be accounted separately from Plan Provider's assets.</b>
8.	Contributions to Fund Reserves <sup>(*)</sup>	Company pays contributions to Plan Provider, the amount of which is determined based on actuarial calculations.  Contributions to Fund Reserves consist of contributions to cover (a) <b>past service liabilities</b> ; and (b) <b>future service liabilities.</b>
9.	Financing Contributions to Fund Reserves <sup>(*)</sup>	<b>Contributions for past service liabilities</b> may be paid in <b>lump sum or installments</b> within a maximum period of average future service years.  <b>Contributions on future service liabilities</b> is determined as <b>3% of monthly wages</b> . <b>The amount of wage for contribution basis is limited</b> to a maximum of <b>5 x PTKP</b> .
10.	Tax Free Income (PTKP)	Tax free income for individuals is currently <b>Rp1,100,000</b> per month.
11.	Fund Investment <sup>(*)</sup>	On the basis of <b>prudent investment principles.</b>  Placement of investment is restricted to (a) securities issued by the government, (b) Central Bank Certificate, (c) time deposits at public bank, (d) bonds issued by state owned companies or private companies with the highest rating through domestic stock exchanges, (e) stocks traded at domestic stock exchanges, or (f) mutual funds.
12.	Portability <sup>(*)</sup>	Fund Reserves <b>can be transferred</b> from one Plan Provider to another Provider on written notice to previous Provider within <b>at least 3 months or 90 calendar days</b> before transfer.
13.	Benefit Payment Mode <sup>(*)</sup>	<b>Lump sum</b> on termination of employment, <i>including Fund Reserves managed by DPLK.</i>
14.	Benefit Payment Timing <sup>(*)</sup>	Payment is to be done <i>after</i> : (a) <b>collective labor agreement between company and employees/ workers</b> has been registered with industrial relation court, <i>or</i> (b) decision of industrial relation court has received legally binding position, <i>or</i> (c) company decision on termination of employment in accordance with <b>Article 160 UU-13/2003</b> , <i>or</i> (d) decision of trade court on termination of employment in accordance with <b>Article 165 UU-13/2003</b> .
15.	Pension Plan Offset <sup>(*)</sup>	The rights of employees/workers in <b>Pension Plan can</b> offset the benefits of Fund Reserves.  If <b>Pension Plan</b> benefit is <i>less than</i> Fund Reserves, then company has to comply to <b>PJK-PHK</b> .
16.	Insurance Premium Offset	In the case a company <b>has insured</b> employment termination caused by death, prolonged illness, or work accidental disability, then the <b>insurance premiums may offset the contributions to Fund Reserves which amounts to 3% of wage.</b>
17.	Taxation <sup>(*)</sup>	Contributions to Fund Reserves are budgeted and deemed as <b>company expense for tax purposes.</b>  Tax treatment on Fund Reserves' investment returns is the same with tax treatment on investment returns of Jamsostek's old age savings plan.

No.	Substance	Provision and Explanation
18.	Reporting <sup>(*)</sup>	It is <b>compulsory</b> for Plan Provider to prepare and submit <b>regular reporting</b> on the management of Employment Termination Compensation Security Program to <b>Company and</b> Minister.
19.	Training and Monitoring	There is training and monitoring by Minister on the management of <b>PJK-PHK</b> .  Training can involve employer organisations or companies, worker/labor union, and related parties.
20.	Sanction <sup>(*)</sup>	Noncompliance (not providing <b>PJK-PHK</b> ) will be given administrative sanction in the forms of verbal warning, temporary cancellation of business activities, or cancellation and/or withdrawal of business license.
21.	Employee/Worker Rights	<b>An employee/worker who is terminated is entitled to severance, service, and compensation payment in accordance with UU-13/2003.</b>
22.	Plan Provider's Obligations	<b>Pay employee/worker rights from Fund Reserves</b> in the event of employment termination as regulated in UUK-13/2003.  <b>Monthly wage as calculation basis</b> for employee/worker rights from <b>Fund Reserves is limited to a maximum of 5 x PTKP.</b>
23.	Company Obligations	Pay the <b>difference between employee/worker rights based on UU-13/2003 or collective labor agreement or company regulations and the amount paid by Plan Provider.</b>
24.	Effective Date	These Government Regulations will be effective within 6 (six) months after issuance.

<sup>(\*)</sup> Will be regulated further by the Minister responsible for governing the workforce.

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We will continue monitoring the progress of this **RPP** and will communicate a more detailed explanation and interpretation on the regulations once the **RPP** has been issued as Government Regulations (**PP**).

While awaiting the event, we encourage you to contact us should you have any questions and/or need more detailed explanation on this summary note. Our consultants would be delighted to assist you.

2 November 2007