

**Government Regulations of the Republic of Indonesia  
Number 35 Year 2021  
On  
Certain Period Work Agreement, Outsourcing, Working Time and  
Resting Time, and Termination of Employment  
Dated 2 February 2021**

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**Summary of Provisions on  
Benefits Due to Termination of Employment and  
Certain Period Work Agreement**

**Peraturan Pemerintah Republik Indonesia  
Nomor 35 Tahun 2021  
Tentang  
Perjanjian Kerja Waktu Tertentu, Alih Daya, Waktu Kerja dan  
Waktu Istirahat, dan Pemutusan Hubungan Kerja  
Tanggal 2 Februari 2021**

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**Ikhtisar Ketentuan  
Hak Akibat Pemutusan Hubungan Kerja dan  
Perjanjian Kerja Waktu Tertentu**

**GOVERNMENT REGULATIONS No. 35 YEAR 2021 (2 February 2021) – SEVERANCE BENEFITS RELATED PROVISIONS**

Reasons of Employment Termination/Alasan Pemutusan Hubungan Kerja			Labor Law Reference	Old Benefits Amount	Govt Regs Reference	New Benefits Amount
1	Merger, dissolving, or separation, and workers are not willing to continue employment	Penggabungan, peleburan atau pemisahan dan pekerja/buruh tidak bersedia melanjutkan hubungan kerja	163 (1)	SVR + SVC + CP(O)	41	SVR + SVC + CP(N)
2	Merger, dissolving, or separation, and employers are not willing to accept workers	Penggabungan, peleburan atau pemisahan dan pengusaha tidak bersedia menerima pekerja/buruh	163 (2)	2 x SVR + SVC + CP(O)		
3	Company take over	Pengambilalihan perusahaan	-	-	42 (1)	SVR + SVC + CP(N)
4	Company take over resulting in change of employment conditions, and workers are not willing to continue employment	Pengambilalihan perusahaan dan syarat kerja berubah dan pekerja/buruh tidak bersedia melanjutkan hubungan kerja	-	-	42 (2)	0.5 x SVR + SVC + CP(N)
5	Efficiency resulting from losses	Efisiensi karena mengalami kerugian	164 (3)	2 x SVR + SVC + CP(O)	43 (1)	0.5 x SVR + SVC + CP(N)
6	Efficiency to avoid losses	Efisiensi untuk mencegah kerugian	-	-	43 (2)	SVR + SVC + CP(N)
7	Company closure due to 2 consecutive years of losses or 2 non-consecutive years of losses	Perusahaan tutup karena mengalami kerugian secara terus menerus selama 2 tahun atau tidak secara terus menerus selama 2 tahun	164 (1)	SVR + SVC + CP(O)	44 (1)	0.5 x SVR + SVC + CP(N)
8	Company closure not as a result of losses	Perusahaan tutup bukan karena mengalami kerugian	-	-	44 (2)	SVR + SVC + CP(N)
9	Company closure due to force majeure	Perusahaan tutup karena <i>force majeure</i>	164 (1)	SVR + SVC + CP(O)	45 (1)	0.5 x SVR + SVC + CP(N)
10	Due to force majeure but not closure	Karena <i>force majeure</i> tapi tidak tutup	-	-	45 (2)	0.75 x SVR + SVC + CP(N)
11	Company under suspension of payment obligation due to losses	Penundaan kewajiban pembayaran utang karena mengalami kerugian	-	-	46 (1)	0.5 x SVR + SVC + CP(N)
12	Company under suspension of payment obligation not due to losses	penundaan kewajiban pembayaran utang bukan karena mengalami kerugian	-	-	46 (2)	SVR + SVC + CP(N)
13	Company declared bankrupt	Perusahaan pailit	165	SVR + SVC + CP(O)	47	0.5 x SVR + SVC + CP(N)

**GOVERNMENT REGULATIONS No. 35 YEAR 2021 (2 February 2021) – SEVERANCE BENEFITS RELATED PROVISIONS** (continued)

Reasons of Employment Termination/Alasan Pemutusan Hubungan Kerja			Labor Law Reference	Old Benefits Amount	Govt Regs Reference	New Benefits Amount
14	Workers request for termination due to employers' wrongdoings (Article 36 letter g)	Pekerja/buruh mengajukan pemutusan hubungan kerja karena perbuatan perusahaan (Pasal 36 huruf g)	169 (1,2)	2 x SVR + SVC + CP(O)	48	SVR + SVC + CP(N)
15	Industrial relations dispute settlement court decision that employers not proven committed the said wrongdoings	Putusan lembaga penyelesaian perselisihan hubungan industrial yang menyatakan pengusaha tidak melakukan perbuatan dimaksud	-	-	49	CP(N) + Separation Pay as regulated in the work agreement (WA), company regulations (CR), or collective labor agreement (CLA)
16	Voluntary resignation meeting certain conditions (Article 36 letter i)	Mengundurkan diri atas kemauan sendiri dan memenuhi syarat (Pasal 36 huruf i)	162 (1) 162 (2)	CP(O) Separation pay	50	CP(N) + Separation Pay as regulated in the WA, CR, or CLA
17	5 or more consecutive days of absence without written notice and has been summoned twice accordingly	Mangkir berturut-turut selama ≥ 5 hari kerja tanpa keterangan tertulis dan telah dipanggil 2 kali secara patut dan tertulis	168 (3)	CP(O)	51	CP(N) + Separation Pay as regulated in the WA, CR, or CLA
18	Violation of work agreement, company regulations, or collective labor agreement, and prior to that, have sent out first, second and third consecutive written warnings	Pelanggaran terhadap ketentuan dalam perjanjian kerja, peraturan perusahaan, atau perjanjian kerja bersama, dan sebelumnya telah diberikan surat peringatan pertama, kedua dan ketiga secara berturut-turut	161 (3)	SVR + SVC + CP(O)	52 (1)	0.5 x SVR + SVC + CP(N)
19	Violation that is considered urgent (mostly major wrongdoings – see elucidation) as regulated in the work agreement, company regulations, or collective labor agreement	Pelanggaran yang bersifat mendesak (mayoritas pelanggaran berat – lihat penjelasan) yang diatur dalam perjanjian kerja, peraturan perusahaan, atau perjanjian kerja bersama (periksa penjelasan)	-	-	52 (2)	CP(N) + Separation Pay as regulated in the WA, CR, or CLA

**GOVERNMENT REGULATIONS No. 35 YEAR 2021 (2 February 2021) – SEVERANCE BENEFITS RELATED PROVISIONS** (continued)

Reasons of Employment Termination/Alasan Pemutusan Hubungan Kerja			Labor Law Reference	Old Benefits Amount	Govt Regs Reference	New Benefits Amount
20	Unable to perform duties for 6 months because of being detained due to being alleged for criminal offence related to the loss of the company	Tidak dapat melakukan pekerjaan selama 6 bulan akibat ditahan pihak yang berwajib karena diduga melakukan tindak pidana yang berkaitan dengan kerugian perusahaan	160 (3,5,7)	SVC + CP(O)	54 (1)	CP(N) + Separation Pay as regulated in the WA, CR, or CLA
21	Unable to perform duties for 6 months because of being detained due to being alleged for criminal offence related to the loss of the company, and court decision is issued before the end of 6 months with guilty verdict	Tidak dapat melakukan pekerjaan selama 6 bulan akibat ditahan pihak yang berwajib karena diduga melakukan tindak pidana yang berkaitan dengan kerugian perusahaan, dan pengadilan memutuskan perkara sebelum berakhirnya 6 bulan dan dinyatakan bersalah	-	-	54 (4)	CP(N) + Separation Pay as regulated in the WA, CR, or CLA
22	Unable to perform duties for 6 months because of being detained due to being alleged for criminal offence but not related to the loss of the company	Tidak dapat melakukan pekerjaan selama 6 bulan akibat ditahan pihak yang berwajib karena diduga melakukan tindak pidana yang tidak berkaitan dengan kerugian perusahaan	-	-	54 (2)	SVC + CP(N)
23	Unable to perform duties for 6 months because of being detained due to being alleged for criminal offence but not related to the loss of the company, and court decision is issued before the end of 6 months with guilty verdict	Tidak dapat melakukan pekerjaan selama 6 bulan akibat ditahan pihak yang berwajib karena diduga melakukan tindak pidana yang tidak berkaitan dengan kerugian perusahaan, dan pengadilan memutuskan perkara sebelum berakhirnya 6 bulan dan dinyatakan bersalah	-	-	54 (5)	SVC + CP(N)

**GOVERNMENT REGULATIONS No. 35 YEAR 2021 (2 February 2021) – SEVERANCE BENEFITS RELATED PROVISIONS** (continued)

Reasons of Employment Termination/Alasan Pemutusan Hubungan Kerja			Labor Law Reference	Old Benefits Amount	Govt Regs Reference	New Benefits Amount
24	Prolonged illness, disability due to work accident and disability to work after 12 months	Mengalami sakit berkepanjangan atau cacat akibat kecelakaan kerja dan tidak dapat melakukan pekerjaannya setelah melampaui batas 12 bulan	172	2 x SVR + 2 x SVC + CP(O)	55 (1)	2 x SVR + SVC + CP(N)
25	Workers may request for termination due to prolonged illness, disability due to work accident and disability to work after 12 months	Pekerja/buruh dapat mengajukan pemutusan hubungan kerja karena alasan mengalami sakit berkepanjangan atau cacat akibat kecelakaan kerja dan tidak dapat melakukan pekerjaannya setelah melampaui batas 12 bulan	-	-	55 (2)	2 x SVR + SVC + CP(N)
<b>26</b>	<b>Attainment of retirement age</b>	<b>Memasuki usia pensiun</b>	<b>167 (5)</b>	<b>2 x SVR + SVC + CP(O)</b>	<b>56</b>	<b>1.75 x SVR + SVC + CP(N)</b>
27	On death of workers	Meninggal dunia	166	2 x SVR + SVC + CP(O)	57	2 x SVR + SVC + CP(N)

Benefits and Scales		Labor Law No. 13/2003	Government Regulations No. 35/2021
1	Severance Pay (SVR) Uang Pesangon	Article 156 (2): At least, from 1 (service < 1 year) up to 9 (service ≥ 8 years) month wages	Article 40 (2): No change in the scales. However, the term “At least” has been removed
2	Service Pay (SVC) Uang Penghargaan Masa Kerja	Article 156 (3): At least, from 2 (service ≥ 3 years) up to 10 (service ≥ 24 years) month wages	Article 40 (3): No change in the scales. However, the term “At least” has been removed
3	Compensation Pay (CP) Uang Penggantian Hak	Article 156 (4): Outstanding leave, cost of repatriation, and 15% x (SVR + SVC) for housing and medical allowances – CP(O)	Article 40 (4): The 15% x (SVR + SVC) payable for housing and medical allowances has been removed – CP(N)

### Company With Formal Pension Program

Previously under Article 167 sections (1), (2), and (3) of Labor Law No. 13/2003, employers' portion of the benefits derived from employer pension funds (DPPK) or financial institution pension funds (DPLK) can be used to offset employers' severance payment obligations at **retirement age only**.

Under Article 58 of the Government Regulations No. 35/2021, employers' portion of the benefits derived from DPPK or DPLK can now be used to offset employers' severance payment obligations for **all reasons of exit**.

### Article 58 Government Regulations No. 35/2021

- (1) Employers having formal pension program implemented in accordance with applicable regulations on pension fund, contributions payable by the employers can be used as part of the fulfillment of employers' obligation to pay severance pay and service pay and separation pay as a result of termination of employment as referred to under Articles 41 to 52 and Articles 54 to 57.
- (2) If the amount of benefits derived from the pension program as referred to under section (1) is less than severance pay and service pay and separation pay, then the employers must make good of the shortfalls.
- (3) The implementation of the provision as referred to under section (1) is regulated in the Work Agreement, Companies' Regulations or Collective Labor Agreement.

### Perusahaan Menyelenggarakan Program Pensiun

Sebelumnya dalam Pasal 167 ayat (1), ayat (2), dan ayat (3) Undang-Undang No. 13/2003, manfaat pensiun porsi pemberi kerja yang diperoleh dari dana pensiun pemberi kerja (DPPK) atau dana pensiun lembaga keuangan (DPLK) dapat diperhitungkan sebagai bagian dari pemenuhan kewajiban pemberi kerja atas hak pemutusan hubungan kerja **hanya pada usia pensiun saja**.

Dalam Pasal 58 Peraturan Pemerintah No. 35/2021, manfaat pensiun porsi pemberi kerja dari DPPK atau DPLK dapat diperhitungkan sebagai bagian dari pemenuhan kewajiban pemberi kerja atas hak pemutusan hubungan kerja untuk **semua alasan pemutusan hubungan kerja**.

### Pasal 58 Peraturan Pemerintah No. 35/2021

- (1) Pengusaha yang mengikutsertakan Pekerja/Buruh dalam program pensiun sesuai dengan ketentuan peraturan perundang-undangan di bidang dana pensiun, iuran yang dibayar oleh Pengusaha dapat diperhitungkan sebagai bagian dari pemenuhan kewajiban Pengusaha atas uang pesangon dan uang penghargaan masa kerja serta uang pisah akibat Pemutusan Hubungan Kerja sebagaimana dimaksud dalam Pasal 41 sampai dengan Pasal 52 dan Pasal 54 sampai dengan Pasal 57.
- (2) Jika perhitungan manfaat dari program pensiun sebagaimana dimaksud pada ayat (1) lebih kecil daripada uang pesangon dan uang penghargaan masa kerja serta uang pisah maka selisihnya dibayar oleh Pengusaha.
- (3) Pelaksanaan ketentuan sebagaimana dimaksud pada ayat (1) diatur dalam Perjanjian Kerja, Peraturan Perusahaan atau Perjanjian Kerja Bersama.

**Severance and Service Pays Benefit Scales**  
**Skala Imbalan Uang Pesangon dan Uang Penghargaan Masa Kerja**  
**(x Wages/Upah)**

<b>Years of Service (YoS) Masa Kerja</b>	<b>Severance Pay (SVR) Uang Pesangon</b>	<b>Years of Service (YoS) Masa Kerja</b>	<b>Service Pay (SVC) Uang Penghargaan Masa Kerja</b>
YoS < 1	1	YoS < 3	0
1 ≤ YoS < 2	2	3 ≤ YoS < 6	2
2 ≤ YoS < 3	3	6 ≤ YoS < 9	3
3 ≤ YoS < 4	4	9 ≤ YoS < 12	4
4 ≤ YoS < 5	5	12 ≤ YoS < 15	5
5 ≤ YoS < 6	6	15 ≤ YoS < 18	6
6 ≤ YoS < 7	7	18 ≤ YoS < 21	7
7 ≤ YoS < 8	8	21 ≤ YoS < 24	8
YoS ≥ 8	9	YoS ≥ 24	10

### Certain Period Work Agreement

Certain Period Work Agreement (CPWA) is defined as an agreement between workers and employers to engage in a working relationship for a limited period of time or for a certain job.

Article 15 Government Regulations No. 35/2021:

Employers must pay certain amount of Compensation to CPWA workers (Indonesian nationals) having at least 1 month of service, at the end of the working period.

### Amount of Compensation for CPWA

Article 16 Government Regulations No. 35/2021:

$$\frac{\text{Service (in month)}}{12} \times 1 \text{ month Wages}$$

For existing CPWA, service in the above formula is based on service since the enactment of the Omnibus Law No. 11/2020 – Article 64 letter b Government Regulations No. 35/2021.

Wages = wage without allowances, or basic wage and fixed allowances.

### Perjanjian Kerja Waktu Tertentu

Perjanjian Kerja Waktu Tertentu (PKWT) adalah perjanjian kerja antara pekerja/buruh dengan pengusaha untuk mengadakan hubungan kerja dalam waktu tertentu atau untuk pekerjaan tertentu.

Pasal 15 Peraturan Pemerintah No. 35/2021:

Pengusaha wajib memberikan uang kompensasi kepada pekerja/buruh (tidak termasuk tenaga kerja asing) dengan masa kerja paling sedikit 1 bulan secara terus menerus, yang hubungan kerjanya berdasarkan PKWT pada saat berakhirnya PKWT.

### Besaran Uang Kompensasi PKWT

Pasal 16 Peraturan Pemerintah No. 35/2021:

$$\frac{\text{Masa Kerja (bulan)}}{12} \times 1 \text{ bulan Upah}$$

PKWT yang jangka waktunya belum berakhir, masa kerja dalam rumus di atas adalah masa kerja sejak tanggal diundangkannya Undang-Undang Cipta Kerja No. 11/2021 – Pasal 64 huruf b Peraturan Pemerintah No. 35/2021.

Upah = upah tanpa tunjangan atau upah pokok dan tunjangan tetap.