

JOB LOSS INSURANCE PROGRAM APPLICABLE IN INDONESIA BASED ON GOVERNMENT REGULATION AND ITS COMPARISON WITH OTHER COUNTRIES

Suparto

Faculty of Law, Universitas Islam Riau, Pekanbaru, Indonesia

suparto@law.uir.ac.id

Received 15 May 2023 • Revised 25 May 2023 • Accepted 28 May 2023

Abstract

One of the regulations in the field of employment issued by the Government of Indonesia is Government Regulation No. 37 of 2021 concerning the Implementation of the Job Loss Insurance Program. This regulation is very important in the midst of rampant layoffs by companies as a result of the Covid-19 pandemic. The purpose of this study was to determine the implementation of a job loss insurance program for employees affected by termination of employment. The research method uses a normative juridical approach with secondary data. Based on the research results obtained that Comparison job loss insurance program in Indonesia with other countries lies in the coverage, requirements and premium contributions. Job loss guarantee or unemployment insurance in Indonesia and other countries have the same goal, which is to financially support individuals who do not have jobs as long as the individual is looking for work. This policy has been carried out since 1935 and 1940 by the United States and Canada against the background of the Great Depression around 1930, then Thailand began to implement an unemployment insurance scheme in 2004. In 2016, there were 73 (seventy-three) countries that had implemented the unemployment insurance scheme. Each country creates an unemployment insurance policy with a different model but the goal remains the same, which is to achieve adequate protection against the risk of job loss by expanding coverage to ensure workers affected by layoffs receive compensation. Based on a comparison with several other countries, it was found that the job loss insurance scheme was effective in overcoming the number of unemployed, especially during an economic recession and was able to protect workers who were laid off by maintaining their level of welfare.

Keywords: Comparison; Assurance program; Job loss

INTRODUCTION

Based on the Constitution of 1945 of the Republic of Indonesia, making the Indonesian economy better can be done by carrying out sustainable national economic development based on economic democracy in line with the mandate in the Decree of the People's Consultative Assembly Number XVI/MPR/1998 to implement investment rules or policies (capital investment), it must be based on a people's economic system. Acceleration of economic development can be done by increasing investment coming from within or outside the country. To make the State of Indonesia participate in international cooperation, there must be an investment climate (investment) which is promotive, fair, conducive, efficient and takes into account the interests of the national economy (Wijayanti, 2009,23).

Investment aims to reduce the number of poor people in Indonesia in practice. The government has an important role in the course of investment in Indonesia. Investment flows in Indonesia are increasing, both domestic investment (PMDN) and foreign investment (PMA). In 2017, the government issued Presidential Regulation No. 91 of 2017 concerning the Acceleration of Business Implementation which aims to provide solutions to various problems faced by investors so that it is expected to accelerate the climate acceleration in Indonesia (Husni, 2014, 76).

One of the goals of attracting as many investors as possible is for economic growth and the creation of the widest possible employment opportunities in order to reduce unemployment, and one of the demands of these investors is a conducive business climate and ease of licensing and availability of labor. The government not only facilitates convenience for investors but also needs to issue regulations governing social security for workers if they lose their jobs. This is in line with the mandate of Article 34 paragraph (2) of the Constitution of 1945 which states that the State shall develop a social security system for all people and empower the weak and underprivileged in accordance with human dignity. From this article, it can be seen that the mandate of the Constitution of the Republic of Indonesia is the development of a People's Economy (Asyhadie, 2008, 116).

Market size and wages do not have a significant effect on the flow of foreign investment, but interest rates have a positive and significant effect (Mah & Yoon, 2010). The results of a study using time series data from 1980-2004 show that foreign investment has a positive influence on economic growth in Indonesia (Wahyudi, 2017, 23). Investment is a reflection of long-term interest and control by investors which is also one of the important factors related to job creation, especially foreign investment.

Indonesia has a high unemployment rate, and this problem is also often experienced by other developing countries. Unemployment causes people's income and productivity to be low and leads to poverty and other social problems. The narrowness of employment opportunities is usually caused by the scarcity of capital to invest or other socio-political problems which are not proportional to the large number of working age population (Sihombing, 2021, 117). Absorption of labour must be supported by high economic growth. In 1994, one percent of economic growth could absorb around 400,000 (four hundred thousand) workers, while in 2008 one percent of economic growth could only absorb 200,000 – 250,000 workers (Harahap, Pratitis, & Sitorus, 2022, 76).

Unemployment is increasing when Indonesia faces the Covid-19 pandemic. Many companies are closing their business or doing efficiency. This has caused many workers to be laid off (PHK). This condition greatly complicates the economic life of workers due to job loss. The government has actually made regulations related to this issue, it is a Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Insurance Program. Based on the description of the background, the formulation of the problem in this paper is described on the question; How is the Job Loss Insurance Program applicable in Indonesia and how does it compare to other countries?

RESEARCH METHOD

In this study, the Authors used a normative legal research method with a statutory approach (Marzuki, 2019, 43). The data used is secondary data, that is Law Number 13 of 2003 concerning Manpower, Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Guarantee Program, and from the results of research, journals, books and related laws and regulations.

The secondary data is then classified and analyzed qualitatively, then the researcher performs an interpretation or interpretation and compares it with concepts and theories that are relevant to the research topic.

RESULTS AND DISCUSSION

Comparison of Job Loss Insurance Programs Applicable in Indonesia with Other Countries.

The provisions in the International Labour Organization (ILO) Convention Number 102 of 1952 concerning Minimum Standards for Social Security regulates at least 9 (nine) branches of protection or social security, which include health benefits, sick benefits, unemployment benefits, maternity benefits, work accident benefits, old-age benefits, retirement benefits, family benefits and heirs benefits. The

International Labour Organization (ILO) Convention No. 102 regulates the requirements for the unemployed who can obtain job loss insurance, as follows: 1). Forced unemployment 2). Temporary unemployment 3). Unemployed must still be able to work. 4). Unemployed must still want to work Back. 5). The unemployed must be willing to accept suitable work.

Each country uses a different approach in implementing social security programs, but there are some general principles that characterize a social security program, which include: 1). The social security program grows and develops in line with the country's economic growth. 2). There is a role for participants to participate in financing the social security program through insurance or savings mechanisms. 3). Participation is mandatory so that the law of large numbers is quickly fulfilled. 4). The role of the state is large, both in terms of regulations, policies, and the implementation of social security programs. 5). It is non-profit so that the added value of investment returns must be returned to improve the social security program. 6). The implementation of the social security program must be carried out carefully, transparently and accountably considering the needs of the large number of people and is a sustainable social security program (Sulastomo, 2008, 118).

Each member country that applies ILO Convention No. 102 must ensure that it provides benefits for unemployment in accordance with the articles contained in the Convention. Job loss insurance or in the international world known as unemployment insurance whose main purpose is to financially support individuals who do not have jobs as long as these individuals are looking for work. The concept of unemployment insurance is to guarantee that ex-employees and their families are in a healthy condition and live a decent life by providing unemployment insurance benefits and then promoting an active job market for productive work, so that unemployment insurance provides income guarantees and increases the ability of prospective workers to match demand or the offer of the world of work (Silitonga, Solechan & Azhar, 2022, 78).

This policy was carried out in 1935 and 1940 by the United States and Canada against the background of the Great Depression around 1930, then Thailand began to implement an unemployment insurance scheme in 2004 (International Labour Organization, 2013). In 2016, there were 73 (seventy-three) countries that had implemented the unemployment insurance scheme (Schimieder & Wachter, 2016, 18). Each country creates an unemployment insurance policy with a different model but still wants to achieve adequate protection against the risk of job loss by expanding coverage to ensure that workers affected by layoffs receive compensation (Falah, Febfauza & Sari, 2022, 223).

The United States has unemployment insurance rules under the name of the Federal Unemployment Tax and the Social Security Act with a cash guarantee of at least USD 1500 which is received every 3 (three) months a year for workers who have worked for at least 20 (twenty) days in 1 year. (United States Code Chapter 23 Federal Unemployment Tax Act, 2012). All industrial, commercial, non-governmental organizations, government employees and more than 75% of workers in the livestock sector can be reached by unemployment insurance, while the fields that are less covered are workers at certain times (seasonal) such as construction, self-employment, and so on (Nicholson & Needles, 2006, 21). The same problem also occurred in Argentina, where initially unemployment insurance covered all areas of the private sector except construction workers, domestic workers, teachers, lecturers and rural areas, but since January 2011 construction workers have been included in unemployment insurance because of the Fondo de Cese Laboral program (Rozada, 2011, 88). This was caused by the low income of seasonal workers.

Japan formed a national organization with branches throughout the country called *Hello Work Centers* which includes all workers including foreign workers who work more than 20 hours per week, except for workers who are over 65 years of age, part-time workers with less than 20 hours of work. per week, temporary workers less than 3 days, seasonal workers working less than 4 (four) months and less than 30 hours per week and government employees (United States Code Chapter 23 Federal Unemployment Tax Act 2012).

Hello Work Centers have a role in handling employment consulting, job placement and providing guidance to companies on employment management so that companies are able to build an environment to retain jobs. The services of *Hello Work Centers* have helped the new workforce with great success since the organization's founding year in 2010. Denmark on 18 May 2017 revised unemployment insurance by imposing it on entrepreneurs and people in non-standard jobs, whereas unemployment insurance for entrepreneurs is rarely regulated due to the difficulty of concept and administration to determine when entrepreneurs become unemployed (Kvist, 2017, 78).

In general, submitting an unemployment insurance claim must include the age of the worker, length of service, and reason for termination of employment. The time period for determining the qualifications of workers who get unemployment insurance varies in each country, countries that require 6 (six) months of work are France, Argentina, the United States, Japan, Chile, Thailand and South Korea, while countries that require a minimum of 12 (twelve) months of work are China, Chile

(permanent workers), Germany, Denmark, Vietnam and Bahrain. Mongolia stipulates that the longest working period is 24 (twenty-four) months and the last 9 (nine) months must be continuous (International Labour Organization, 2013). Article 20 of the ILO Convention number 168 allows the rejection of benefits if the worker loses his job due to violating the rules, leaves without a clear reason and the status of the termination of his employment is still a dispute in industrial relations disputes. There are different schemes in several countries where unemployment insurance can still be obtained even though workers resign voluntarily with a waiting period requirement, for example Denmark which requires a waiting period of 5 (five) weeks and does not benefit from unemployment insurance for the first 3 (three) months, while Japan has a waiting period of 3 (three) months, and Germany has a waiting period of 12 (twelve) weeks (Ragiliawan & Gunawan, 2021, 118).

Although Indonesia has not ratified the ILO convention No. 102 of 1952, Indonesia has implemented social security protection in the form of National Health Insurance, Work Accident Insurance, Death Insurance, Old Age Security and Pension Security. In line with the idea of Unemployment Benefits contained in part IV of the ILO Convention Number 102 of 1952, the national social security system in Indonesia has been added, that is the existence of a job loss insurance by issuing Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Insurance Program. Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Insurance Program also contains rules in Article 10 paragraph (1) of the ILO Convention Number 168 which requires workers to remain actively looking for work and must always be willing and able to work. The requirement that an employee remains active can be concluded with the following classifications: 1). Register to the job placement office and access services related to job search. 2). Enrollment and job training and capacity development. 3). Other registrations such as employer subsidies and public works. 4). Willing and able to work. 5). There are no special requirements related to work (always willing to work in any field) (Asenjo & Pignatt, 2003, 223).

Indonesia formulated the concept of social security by agreeing on a social security system built on 3 (three) pillars, as follows:

1. The first pillar is the pillar of social assistance which is the lowest pillar for those who are poor and unable to have an adequate steady income to meet the basic needs of a decent life, which in practice this social assistance is realized with the help of contributions by the government so that the poor and those who are unable to remain can become participants of the national social security system;
2. The second pillar is the social insurance pillar, which is an insurance system that must be followed for all residents whose income is above the poverty line by paying a proportionate contribution to their income. The first and second pillars are the foundation of the national social security system in meeting the basic needs of a decent life and must be followed and accepted by all people;
3. The third pillar is an additional pillar for those who want a guarantee that is greater than the guarantee of a decent standard of living and those who can afford it. This pillar can be filled by buying commercial insurance, personal savings or other programs that can be carried out by individuals or groups such as investing in stocks, mutual funds or by buying property as savings for themselves or their families (Thabrany, 2008, 178).

Japan provides unemployment insurance in the form of daily allowances based on the salary received for the last 6 (six) months, then divided into 180 times 50% to 80%, meaning that the lower the salary, the higher the level of benefits that will be received (Wiryadi, & Novendra, 2021, 28). Payment of unemployment insurance premiums also uses a different system in each country but still uses 3 (three) sources, which include workers, employers and the government. Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Insurance Program in Article 11 stipulates that the contribution of the job loss insurance program is paid every month with details of contributions of 0.46% of wages with details of 0.22% borne by the Central Government and the remaining 0.24 % is a recomposition of work accident insurance of 0.14% and death insurance of 0.10%. The following is an overview of the premium contribution in each country:

Table 1. Comparison of Job Loss Insurance Premiums from Several Countries

No	The Country	Employee	Employer	Government
1.	Albania	-	0,9 of salary	-
2.	Argentina	-	0.89% to 1.59% of salary	Subsidy by Government
3.	Austria	3% of salary	3% of salary	Subsidy by the government if there is a deficit
4.	Bahrain	1% of salary	1% of salary	1% of salary
5.	Bulgaria	0,4% of salary	0,6% of salary	-

6.	Netherlands		2,85% of salary	-	
7.	Belgium	0,87% of salary	1.46% plus 1.6% for companies with more than 10 (ten) employees	Subsidy by the Government if there is a deficit	
8.	Canada	1,58% of salary	2,212% of salary	-	
9.	China	1% of salary	2% of salary	Subsidy by Local Government	
10.	Denmark	30% of fixed costs	-	70% of fixed cost	
11.	Germany	3% of salary	-	-	
12.	Japan	1,2% of salary	-	¼ of the payment	
13.	Colombia	-	4% (including family allowance)	-	
14.	Mauritius	1% of salary	2,5% of salary	Subsidy by the Government if there is a deficit	
15.	Mongolia	1% of salary	-	-	
16.	Poland		2,45% of salary	-	
17.	Thailand	0,5% of salary	-	0,25% of salary	
18.	Turkey	1% of salary	2% of salary	1% of salary	
19.	United States		State average of 1% of federal payroll taxes, 0.6% of salaries		
20.	Vietnam	3% of salary	-	-	

Source: International Labour Organization (2013). *Comparative Review of Unemployment and Employment Insurance Experiences in Asia and Worldwide*, International Labour Organization, Thailand, page 29-30.

CONCLUSION

Comparison of job loss insurance programs in Indonesia with other countries lies in the regulations related to coverage, requirements and premium contributions. Job loss or unemployment insurance in Indonesia with other countries has the same main goal, that is to financially support individuals who do not have jobs as long as these individuals are looking for work. This policy was carried out in 1935 and 1940 by the United States and Canada against the background of the Great Depression around 1930, then Thailand began to carry out an unemployment insurance scheme in 2004. In 2016, there were 73 (seventy-three) countries that had implemented the unemployment insurance scheme. Each country creates an unemployment insurance policy with a different model but still wants to achieve adequate protection against the risk of losing their jobs by expanding coverage to ensure workers affected by layoffs get compensation. Based on all comparisons, it is found that the job loss insurance scheme is effective in overcoming the number of unemployed, especially during an economic recession and can protect workers who have been laid off by maintaining a level of welfare.

It is hoped that the Government will adopt a job loss insurance or in the international world referred to as unemployment insurance while maintaining and always paying attention to the times, so that the job loss insurance scheme can provide more benefits to workers who have been laid off.

REFERENCES

- Asenjo, A. and Pignatt, C. (2003). *Unemployment Insurance Scheme Around the World*, International Labour Organization.
- Asyhadie, Z. (2008). *Legal Aspects of Labor Social Security*, Rajawali, Jakarta.
- Falah, A. I., Febfauza, R., and Sari, N.K., (2022). "Polemic of New Policy Determination regarding Old Age Security in Indonesia", *Journal of Public Administration LAN RI*, XVIII (1).
- Harahap, M., Pratitis, S.A. & Sitorus, A.P., (2022). "Labor Law Aspects of Guaranteed Job Loss Rights Based on Law no. 11 of 2020 concerning Job Creation", *Law_Jurnal*, II(2), Pp.116 – 122
- Husni, L. (2014). *Introduction to Employment Law*, Raja Grafindo Persada, Jakarta.
- International Labour Organization (2013). *Comparative Review of Unemployment and Employment Insurance Experiences in Asia and Worldwide*, International Labour Organization, Thailand.
- Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Guarantee Program

- Kvist, J. (2017). "Denmark: A New Unemployment Insurance Scheme for the Future Labour Market", ESPN Report No. 45.
- Law Number 13 of 2003 concerning Manpower
- Mah, J.S. and Yoon, S.C. (2010). "Determinants of FDI Flows into Indonesia and Singapore", *International Area Studies Review*, Singapore.
- Marzuki, P.M., (2019). *Legal Research*, Kencana, Jakarta.
- Nicholson, W. and Needles, K. (2006). "Unemployment Insurance Strengthening the Relationship between Theory and Policy", *Journal of Economic Perspectives*, 20 (3).
- Ragiliawan, Z., and Gunawan, B. T., (2021). "Job Loss Guarantee in the Perspective of State Expenditure", *Journal of Manpower*, 15 (1).
- Rozada, M. G., (2011). *Protecting Workers Against Unemployment in Latin America and the Carribean: Evidence from Argentina*, Inter-American Development Bank, Argentina.
- Schimieder, J. F. and Wachter, T. V. (2016). "The Effect of Unemployment Insurance Benefits: New Evidence and Interpretation," Nber Working Paper No, 22565.
- Sihombing, S. (2021). "Perspective on Protection and Welfare Guarantee for Workers in the Job Creation Act", *Journal of Justice*, 1(1).
- Silitonga, C.O, Solechan and Azhar, M. (2022). "Prospects of Providing Job Loss Guarantees to Provide Protection of Workers' Rights in the Employment Law System", *Administrative Law & Governance Journal*, 5 (1).
- Sulastomo (2008). *National Social Security System: An Introduction*, Rajawali Press, Jakarta.
- Thabrany, H. (2008). *Strategi Pendanaan Jaminan Kesehatan Indonesia Dalam Sistem Jaminan Sosial Nasional*, Diskusi RPJMN Bappenas, Jakarta.
- United States Code Chapter 23 Federal Unemployment Tax Act 2012
- Wahyudi (2017). "The Impact of Foreign Direct Investment on Economic Growth in Indonesia 1980-2004, a Causality Approach", *Journal of Indonesian Economy and Business*, 24 (3).
- Wijayanti, A. (2009). *Post-Reform Employment Law*, Sinar Grafika, Jakarta.
- Wiryadi, K.J., & Novendra, B.,(2021). "Job Loss Guarantee due to the Covid-19 Pandemic: Regulation, Benefits, and Comparison with Other Countries", *Journal of the State of Law*, 12(1).