

Review of the Laws and Regulations regarding the Employees' Social Security in Indonesia

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■ 要旨

インドネシアでは、他の発展途上国と同様に、すべての国民を対象とした社会保障制度が確立されているわけではないが、公務員や軍人、雇用労働者は、それぞれ別個の制度によって、ある程度の保障を受けている。本稿は、そのなかでも雇用労働者を対象とした制度に焦点を当て、その法的枠組みを整理・検討したものである。

現行制度は、1992年のインドネシア共和国第3号法、およびこれに続いて発布された複数の政省令、大統領令に基づいて実施されている。これ以前には、1977年の政令第33号に基づく社会保険制度があったが、その保障範囲は労災・死亡・老齢のみであり、対象も中規模以上の企業の雇用労働者に限られていた。現行制度は、その社会保険制度を引き継ぎ、保障範囲に一定の拡大をもたらした。ただし、「社会保障」とうたってはいるが、失業給付や児童手当を欠いているなど、現行制度の保障範囲はそれほど包括的でなく、既存の諸給付にもまだ不十分な点が多いのが現実である。

Introduction

As in other developing countries, Indonesia has not established a social security system that provides comprehensive protection for the whole population. At present, however, employees as well as civil servants and armed forces are provided with certain protections through separate schemes for each of these working sectors. Among those, the following description focuses on the current employees' scheme, which is called the Employees' Social Security (Jaminan Sosial Tenaga Kerja: JAMSOSTEK).

The fundamental law of the Employees' Social Security was promulgated in February 1992, with implementing regulations being issued one year later in February 1993. Before that, the Employees' Social Insurance (Asuransi Sosial Tenaga Kerja: ASTEK) was in operation as the forerunner of the Employees' Social Security with Government Regulation No. 33 Year 1977 as its basis. Contingencies covered by the Employees' Social Insurance, however, were limited to employment accident, death and old age. Membership was also restricted to those working at medium to large-scale companies. In short, the Employees' Social

Security was established in order to embrace a broader scope of protections²⁾.

The Employees' Social Security has been enforced in accordance with the following laws and regulations.

- (a) Act No. 3: The Republic of Indonesia Act Number 3 Year 1992 on the Employees' Social Security [Undang-Undang Republik Indonesia Nomor 3 Tahun 1992 tentang Jaminan Sosial Tenaga Kerja] as placed in the State Gazette Year 1992 No. 14. Elucidation on this act is placed in the Supplementary State Gazette No. 3468.
- (b) Regulation No. 14: Government Regulation of the Republic of Indonesia Number 14 Year 1993 on the Implementation of the Employees' Social Security [Peraturan Pemerintah Republik Indonesia Nomor 14 Tahun 1993 tentang Penyelenggaraan Program Jaminan Sosial Tenaga Kerja] as placed in the State Gazette Year 1993 No. 20. Elucidation on this regulation is placed in the Supplementary State Gazette No. 3520.
- (c) Presidential Decree No. 22: Presidential Decree of the Republic of Indonesia Number 22 Year 1993 on Diseases Arising out of Employment Relationship

[Keputusan Presiden Republik Indonesia Nomor 22 Tahun 1993 tentang Penyakit yang Timbul Karena Hubungan Kerja].

- (d) Regulation No. PER-05/MEN/1993: The Minister of Manpower Regulation Number PER-05/MEN/1993 on the Technical Guidance for Membership, Registration, Payment of Contributions, Payment of Benefits, and Services of the Employees' Social Security [Peraturan Menteri Tenaga Kerja Republik Indonesia Nomor PER-05/MEN/1993 tentang Petunjuk Teknis Pendaftaran Kepesertaan, Pembayaran Iuran, Pembayaran Santunan, dan Pelayanan Jaminan Sosial Tenaga Kerja].
- (e) Regulation No. 36: Government Regulation of the Republic of Indonesia Number 36 Year 1995 on the Establishment of the Executive Body of the Employees' Social Security Program [Peraturan Pemerintah Republik Indonesia Nomor 36 Tahun 1995 tentang Penetapan Badan Penyelenggara Program Jaminan Sosial Tenaga Kerja] as placed in the State Gazette Year 1995, No. 59.
- (f) Regulation No. 79: Government Regulation of the Republic of Indonesia No. 79 Year 1998 on the Amendment of Government Regulation Number 14 Year 1993 on the Implementation of the Employees' Social Security [Peraturan Pemerintah Republik Indonesia Nomor 79 Tahun 1998 tentang Perubahan atas Peraturan Pemerintah Nomor 14 Tahun 1993 tentang Penyelenggaraan Program Jaminan Sosial Tenaga Kerja] as placed in the State Gazette Year 1998, No. 184³⁾. Elucidation on this regulation is placed in the Supplementary State Gazette No. 3792.

The following is a review of these laws and regulations of the Employees' Social Security, which shall be developed into a further analysis.

I Background Considerations

In the preamble to Act No. 3, the following considerations are described as purposes to be achieved by legislation providing the operation of the Employees' Social Security.

- (a) To bring about a welfare, just, prosperous, and equitable society both materially and spiritually, national development as the implementation of

Pancasila⁴⁾ is carried out in the framework of the development of the Indonesian people as a whole and the development of all of Indonesian society.

- (b) The increasing role of manpower in national development and the increasing use of technology in various sectors of endeavors may result in increased risks threatening the safety, health, and welfare of workers thereby requiring efforts to increase labour protection.
- (c) The protection of employees, whether in employment contract or not, through the social security scheme provides work tranquility as well as positive effects on efforts to strengthen discipline and increase labour productivity.

These considerations add up to that labour protection through social security is an indispensable component for national development⁵⁾.

II General and Administrative Matters

The employees' Social Security is rendered in the form of cash benefits, for partial replacement of the loss or the reduction of income, and services (Article 1 (1), Act No. 3). The scheme can be administered through insurance mechanism (Article 3 (1), Act No. 3) and the benefits consist of employment accident benefits, death benefits, old age benefits and health care benefits⁶⁾ (Article 6 (1), Act No. 3⁷⁾). Health care benefits are not only for employees but also for their families (Article 7 (2), Act No. 3). The rights of the Employees' Social Security members cannot be transferred, put for collateral or, as a result of implementing court's verdict, confiscated (Article 51, Regulation No. 14).

The benefits of the Employees' Social Security, however, basically constitute minimum protection to maintain the self-respect and dignity of employees. Such benefits shall keep the financing requirements at minimum level to be within the reach of every employer and employee. Those who have greater financial capability may add to the minimum protection with higher benefits through various other ways⁸⁾. Employees who have already been provided with other benefit schemes by their employers shall not have their rights reduced by the enactment of Act No. 3 (Article 33 (3), Act No. 3⁹⁾).

The Employees' Social Security is operated and administered by the Executive Body, that is a state

owned enterprise established under existing legislation (Article 25 (1), (2), Act. No. 3). Article 52 of Regulation No. 14 entrusts PT ASTEK with the role of the Executive Body as a transitional provision. By the enactment of Government Regulation No. 36, however, PT ASTEK was formally determined as the Executive Body and changed its name to PT JAMSOSTEK (Article 1, Regulation No. 36). The Minister in charge of manpower affairs provides guidance and supervision to the administration of the Employees' Social Security through the Executive Body. As part of the duties of guidance and supervision, the Minister¹⁰⁾ may carry out direct inspection at any time (Article 4, Regulation No. 36).

Employers are obliged to maintain and submit data required for the operation and the administration of the Employees' Social Security to the Executive Body. If the submitted data are incorrect, employers are liable as follows. In the case that employees are not registered in the form of membership, employers are obliged to secure the employees' rights according to the provision of Act No. 3. In case there are deficiencies of benefit payments, employers are responsible for making up the deficiencies. In the case benefit payments are excessive, employers must repay the excess benefits to the Executive Body (Article 18 (1)-(5))¹¹⁾.

As to penalties against non-compliance with the laws and the regulations, Act No. 3 (Article 29, 30) and Regulation No. 14 (Article 47) have provisions stipulating sanctions in the form of a fine, imprisonment or revocation of a business license. Even the Executive Body must provide compensation to beneficiaries if it fails to pay benefits, as stipulated in Article 26 of Act No. 3, no later than 1 month after the fulfillment of technical and administrative requirements by employers and/or employees (Article 47, Regulation No. 14). Act. No. 3 (Article 31) also has provisions concerning investigation, by which the Ministry of Manpower's officers as well as State Police investigating officers are vested with special authority to investigate suspected or punishable cases¹²⁾.

III Membership

Employers and employees are obliged to be members of the Employees' Social Security (Article 17, Act No. 3). State owned as well as private enterprises are covered by this scheme (Article 1(4), Act No. 3). Social

undertakings and other establishments not in the form of enterprises shall also be covered if such institutions have managers employing other persons as in enterprises (Article 2, Act No. 3). In accordance with the stages of national development, which influence the administrative ability and the ability of society in general and employers in particular to finance the Employees' Social Security, it is considered necessary to make the mandatory membership enrollment in stages¹³⁾. The stages of mandatory membership are provided in a government regulation. In the event that an enterprise has not joined the Employees' Social Security due to the stages of mandatory membership, the employer shall be liable for employment accident benefits to the employees as provided in the Act No. 3, the method and the procedure being determined by the Minister (Article 19, Act No. 3)¹⁴⁾. In addition, a scheme for employees outside employment contract¹⁵⁾ will be provided under a government regulation (Article 4 (2), Act No. 3).

According to Regulation No. 14, enterprises employing 10 employees or more, or paying monthly payroll of not less than 1,000,000 rupiahs are obliged to register their employees in the Employees' Social Security (Article 2 (3)). Those who used to be covered by the Employees' Social Insurance based on Government Regulation No. 33 Year 1977 shall transfer their membership to the Employees' Social Security. In addition, enterprises that have joined the Employees' Social Security shall remain as members even if they no longer meet with the requirements mentioned above (Article 2 (5), (6), Regulation No. 14). In other cases, they may join the program on a voluntary basis¹⁶⁾. The membership of casual, daily, and contractual employees in the Employees' Social Security will be provided further by the Minister (Article 3, Regulation No. 14). In regard to health care benefits, if employers have already provided their own health care programs for their employees and the benefits are superior to the Basic Health Care Benefit Package provided in Regulation No. 14 (Article 35), such employers are not obliged to join the Employees' Social Security (Article 2 (4), Regulation No. 14).

IV Contributions

Along with employees' contributions deducted from wages, employers are liable to remit their contributions to the Executive Body within a certain time period provided by a government regulation. (Article 22 (1), Act No. 3) Contribution rates, procedures, payment terms, penalties, and contribution forms for the Employees' Social Security are provided in a government regulation (Article 21, Act No. 3). According to Regulation No. 14 (Article 9), the contribution rates, which are expressed as percentages of monthly wage¹⁷⁾, are as follows.

- (a) Employment accident benefits—Contribution rates are stipulated according to the types of business, which are classified into 5 groups¹⁸⁾.
Group I 0.24 %, Group II 0.54 %, Group III 0.89 %, Group IV 1.27 %, Group V 1.74 %.
- (b) Old age benefits—5.70 %.
- (c) Death benefits—0.30 %.
- (d) Health care benefits—6.00 % for employees with family, and 3.00 % for single employees. Monthly wage as the basis for calculating contribution to health care benefits can not be more than a maximum amount of 1,000,000 rupiahs.

Contributions for employment accident benefits, death benefits, and health care benefits are born solely by employers. Contribution for old age benefits is born by employers and employees (Article 20, Act No. 3). They share the contribution at the rate of 3.70 % and 2.00 % respectively (Article 9 (3), Regulation No. 14).

V Employment accident benefits

Employees suffering from employment accident¹⁹⁾ are entitled to the following benefits (Article 9, Act No. 3²⁰⁾).

- (a) The cost of transportation with a maximum amount of 100,000 rupiahs (land/river), 200,000 rupiahs (sea) or 250,000 rupiahs (air) according to the method of transportation.
- (b) The costs of medical examination, treatment, and/or hospital care with a maximum amount of 4,000,000 rupiahs²¹⁾ for each case.
- (c) The cost of rehabilitation²²⁾, in the form of orthoses and/or prostheses for disabled employees who lost (or lost the functions of) the limbs.
- (d) Cash allowances, which consist of the followings.
 - Temporary disability allowance²³⁾—The first 4

months: monthly wage × 100%

The second 4 months: monthly wage × 75%

Subsequent months: monthly wage × 50%

- Permanent-partial disability allowance—Lump sum benefit of monthly wage × 2% – 70% × 60. Percentage depends on types and degrees of disability.
- Permanent-total disability allowance—Lump sum benefit of monthly wage × 70% × 60 plus monthly benefit of 25,000 rupiahs for 24 months.
- Death allowance—Lump sum benefit of monthly wage × 60%²⁴⁾ × 60 plus monthly benefit of 25,000 rupiahs for 24 months plus funeral expense of 400,000 rupiahs²⁵⁾.

Benefits shown under letters (a) and (b) are paid in advance by employers and reimbursed to them by the Executive Body (Article 14, 15 (2), Regulation No. 14). Those shown under letter (d) are paid directly to employees or, in case of death, to their families in accordance with Article 22 of Regulation No. 14, which is about death benefits (Article 15 (3), (4), Regulation No. 14²⁶⁾). Employment accidents to be compensated include those which occur on the way from residence to workplace and back to residence via a usual and reasonable way (Article 1 (6), Act No. 3).

Employees who are eligible for employment accident benefits include apprentices and students either remunerated or not, contractors unless they are not enterprises, and convicts employed in enterprises (Article 8, Act No. 3). They are entitled to the above mentioned benefits in case of employment accident. Because they do not receive wages as permanent employees, however, the method of calculating the cash allowances is stipulated as follows (Article 13, Regulation No. 14).

- (a) Apprentices, students, or convicts are assumed to receive the same monthly wages as employees working at similar jobs in the enterprise.
- (b) Individual contractors are assumed to receive the highest wage of operating, i.e. non-managerial employees working in the enterprise.

Employers must provide first aid to the victims of employment accidents. They are also obliged to report any accidents to the local or the nearest Manpower Department Office and Executive Body. As an

employment accident report phase I, this must be completed no later than 48 hours after the accident occurs. In case of diseases arising out of employment²⁷⁾, the report must be completed within 48 hours of receiving the diagnosis from the examining doctor. Employers are also obliged to report the damage of accidents to the above mentioned institutions. As an employment accident report phase II, this must be carried out no later than 48 hours after receiving an information letter written by the examining doctor or the advisory doctor²⁸⁾ determining:

- (a) recovery from temporary disablement
- (b) partial and permanent invalidity
- (c) total and permanent invalidity either physically or mentally
- (d) death.

The phase II reports simultaneously constitute claims to the Executive Body for benefit payments. Further provisions of the reporting procedures are provided by the Minister (Article 18, 19, Regulation No. 14²⁹⁾).

The Executive Body shall, on the basis of an information letter from the examining doctor or the advisory doctor, determine and reimburse the costs and pay the allowances mentioned above no later than 1 month from receipt of the claim (Article 15 (1), Regulation 14). In case of a dispute as to the extent of the damage of employment accident, which is the basis for benefit payments, a decision concerning the extent is made by labor inspectors. If the decision by the labor inspectors is not acceptable by the Executive Body, by the employer or by the employee, the Minister will make the final decision. In case of a dispute on whether the accident is employment related or not, the Minister may make a decision and require the employer to provide benefits which are equal to those under the Employees' Social Security. Further provisions on the settlement of such disputes are provided by the Minister (Article 16, 17, Regulation No. 14).

As long as employees suffering from employment accidents are unable to work, employers shall continue to pay wages to them, until decisions concerning damages by employment accidents are received by all parties or made by the Minister. After this procedure, the Executive Body shall reimburse temporary disability allowances to the employers who had paid

the above-mentioned wages. If allowances payable by the Executive Body are higher than wages paid by employers, the differences shall be paid directly to employees. If allowances payable by the Executive Body are less than wages paid by employers, employees may not be required to pay back the differences (Article 20, Regulation No. 14).

VI Death Benefits

When employees die not as a result of employment accident, their families are entitled to death benefits. These consist of funeral expense and death allowance (Article 12, Act No. 3). They are payable in a lump sum, the amounts being 400,000 rupiahs for funeral expense and 2,000,000 rupiahs for death allowance (Article 22 (1), Regulation No. 14³⁰⁾). In case of apprentices, students, those contracting jobs, or convicts, however, the surviving families are not entitled to death benefits (Article 22 (5), Regulation No. 14).

According to Article 13 of Act. No. 3, the order of persons who are entitled to death benefits is as follows.

- (a) spouses (b) children (c) parents (d) grand children
- (e) grand parents (f) siblings (g) parents-in-laws

Meanwhile Article 22 of Regulation 14 stipulates that, if employees have neither spouses, children, parents, grandchildren, nor grandparents, death benefits are payable to persons appointed by the employees in their wills. If there is no will, funeral expenses are payable to employers or other persons who arrange burials (Article 22, Regulation 14). So the order of siblings and parents in-laws becomes unclear in the regulation. In addition, there is no stipulation on the age of the entitled persons and so on.

VII Old Age Benefits

Old age benefits are payable to employees who have attained the age of 55 years, or who have total and permanent disability as diagnosed by a medical doctor. The payment is in a lump sum, periodical, or partly in a lump sum and periodical (Article 14 (1), Act No. 3).

The amount of old age benefits shall be the total amount of contribution remitted plus the interest of its investment³¹⁾. It is calculated on the basis of employees' individual accounts. In the case of employees who had

been members of the Employees' Social Insurance (ASTEK) based on Government Regulation No. 33 Year 1977, their accounts are transferred to the Employees' Social Security (Article 48, Regulation 14). Old age benefit payments may be made:

- (a) in a lump sum if the total amount to be paid is less than 3,000,000 rupiahs or
- (b) on a periodic basis with a maximum of 5 years, if the total amount reaches 3,000,000 rupiahs or more and employees opt for periodic payment (Article 24, Regulation No. 14).

Employees who reach the age of 55 years and terminate their employment shall apply to the Executive Body for old age benefits (Article 28, Regulation No. 14). Employees who become totally and permanently disabled before reaching the age of 55 years are also entitled to apply to the Executive Body for benefit payments (Article 29, Regulation No. 14). In such a case, benefits are paid in a lump sum or periodically according to the above mentioned conditions and the entitled persons' choice (Article 19, Regulation No. PER-05/MEN/1993).

Aside from the case of disability, benefits are also payable before attaining the age of 55 years if employees meet a certain qualifying period of membership provided in a government regulation (Article 15, Act No. 3). According to Article 32 of Regulation No. 14, employees who leave their jobs³²⁾ before reaching the age of 55 with a membership period of not less than 5 years³³⁾ may apply for benefits in a lump sum. Benefit payments in this case shall be made after a waiting period of 6 months from the termination of employment. If employees resume their employment within 6 months, benefit amounts shall be calculated with the subsequent membership period (Article 32, Regulation No. 14). On the other hand, employees reaching the age of 55 years and still working may opt to receive benefits upon reaching that age or at the time when they retire (Article 27, Regulation No. 14)³⁴⁾. In case of employees leaving the territory of Indonesia forever³⁵⁾, benefit payments are made in a lump sum (Article 25, Regulation No. 14).

If employees or recipients of periodic benefit payments die³⁶⁾, benefits are payable to widows or widowers in a lump sum³⁷⁾. The benefit amounts are

equal to the benefit balances, which have not been paid. If there is no widow or widower, benefits shall be paid to orphans. If there is neither widow, nor widower, nor orphans, benefits are payable to other heirs.

VIII Health Care Benefits

Employees, their spouses and children are entitled to health care benefits (Article 16 (1), Act No. 3). Spouses should be legitimate and the maximum number of children is three (Article 33 (1), Regulation No. 14). Children, whether adopted, stepchildren or not, should be under 21 years old, unmarried and with no employment³⁸⁾. Both spouses and children should be dependent on employees and registered at the Executive Body (Article 1 (4), Regulation No. PER-05/MEN/1993).

Health care benefits are comprehensive in nature, and include promotive, preventive, curative and rehabilitative services³⁹⁾ (Article 34 (2), Regulation No. 14). They are rendered on the basis of a written agreement between the Executive Body and health service providers (Article 37 (1), Regulation 14). In order to secure the quality, the Executive Body and labour inspectors monitor the services rendered (Article 46, Regulation No. 14). Those services, which are called Basic Health Care Benefit Package, consist of the following⁴⁰⁾.

(a) Outpatient primary care

This is provided by primary health providers consisting of general practitioners, dentists, polyclinics and community health centres appointed by the Executive Body (Article 1 (2), Regulation No. PER-05/MEN/1993). Each individual member chooses his/her own primary health provider in the area of residence or work place⁴¹⁾ (Article 35 (1), Regulation No. PER-05/MEN/1993; Article 38 (1), Regulation No. 14).

(b) Subsequent outpatient care

This is provided by subsequent health providers on the basis of referral from primary health providers. (Article 39 (2), Regulation No. 14) Subsequent health providers consist of specialists and hospitals appointed by the Executive Body (Article 1 (3), Regulation No. PER-05/MEN/1993).

(c) Inpatient hospital care

This is provided on the basis of referral from other health providers. There are certain limitations in terms of duration and service standards, however. Maximum duration of inpatient care is 60 days, including ICU/ICCU treatment with a maximum of 20 days, for each type of diseases in a given year. Service standards are Class 2 at government hospitals and Class 3 at private hospitals⁴²⁾ (Article 32, Regulation No. PER-05/MEN/1993). Patients shall be responsible for difference in the cost if they require service in excess of these limitations (Article 45, Regulation No. 14).

(d) Maternity and delivery care

Female employees and male employees' spouses are entitled to this service at primary health providers or maternity wards under the following rules (Article 42, Regulation No. 14; Article 23 (3), (4), Regulation No. PER-05/MEN/1993).

- Service is provided up to the third child. The delivery cost of each child is determined at 50,000 rupiahs.
- If employees have three or more children at the beginning of membership, service is not provided.
- Deliveries with difficult problems may be referred to inpatient care, which is no less than 3 days and no more than 5 days.

(e) Diagnostic support

This means medical examinations required by subsequent care and carried out at hospitals or other special facilities including:

- laboratory examination
- x-ray examination
- electro-encephalography, electro-cardiography, ultra sonography, CT scanning
- other subsequent diagnostic examinations.

Such examinations are, however, provided according to the availability of respective regional health facilities (Article 26, Regulation No. PER-05/MEN/1993).

(f) Special care

This is provided only to employees in the form of eye glasses, eye prostheses, dental prostheses, hearing aids and joint prostheses (Article 44, Regulation No. 14). These are subject to certain maximum costs as stipulated

in Regulation No. PER-05/MEN/1993 (Article 27(3)).

(g) Emergency care

Emergency care is provided by any health provider (Article 28, Regulation No. PER-05/MEN/1993). If inpatient care at a non-member hospital is needed, the cost shall be reimbursed for no more than 7 days with due regard to the stipulated standard (Article 41(1), (3), Regulation 14).

The outline of Basic Health Care Benefit Package has been mentioned above. Patients with prescriptions may obtain medicines at appointed pharmacies. If medicines are provided beyond a stipulated standard, difference in the cost shall be borne by the patients. (Article 43, Regulation 14) Meanwhile, Basic Health Care Benefit Package excludes the following⁴³⁾.

- health services outside the member health providers⁴⁴⁾
- general/periodic check-up
- examinations and treatment for fertility
- work-related or intentional injuries and diseases
- alcoholic, narcotic, venereal and AIDS-related diseases
- bodily organ transplantation including bone marrow
- cancer diseases
- haemodialysis
- super specialistic medical treatment
- cost of transportation to obtain health services

Further provisions of health care benefits shall be resolved by the Minister after consultation with the minister responsible for health affairs (Article 35 (2), Regulation No. 14).

Concluding Remarks

The establishment of the Employees' Social Security has made progress in the welfare of workers and their dependents. It is obvious, however, that the current system still falls short in not a few aspects. Although such aspects can be grasped in the description above, some comments should be added.

Unlike other benefits that are based on an insurance mechanism, old age benefits are operated under a provident fund system, which pays benefits according to the balance of member's individual account. So there is no risk sharing nor income transfer among members. It is desirable that Indonesia shall introduce a pension system based on social insurance as

an alternative to the current old age benefits⁴⁵⁾. As to employment accident benefits, experience rating has not been adopted. As an incentive for employers to make efforts to prevent employment accidents, the introduction of such a contribution system is deemed necessary. With regard to health care benefits, Article 37 (2) of Regulation 14 stipulates that the Executive Body shall pay remuneration to health providers through a prepayment and capitation system. But this stipulation on remuneration doesn't seem to be enough considering the health care delivery system mentioned in the laws and the regulations. In fact, for example, subsequent health providers are paid by fee for service system in some cases but there is no stipulation regarding such a payment. It should be noted that remuneration systems are different among regions at the discretion of each regional office of the Executive Body.

In addition, the Employees' Social Security doesn't have unemployment benefit, which is an indispensable component of social security. Although unemployed members may conditionally receive some benefit from their old age benefit accounts, it results in the reduction of their old age security under the current provident fund system. The Employees' Social Security also doesn't have family allowance, although this component of social security doesn't have to be provided under the same scheme as other benefits. It goes without saying that family allowance is paid to lighten the economic burden of bringing up children. So it is understandable even if the government is not eager to introduce such an allowance considering Indonesia's need to control the population growth⁴⁶⁾. It is true, however, the Employees' Social Security doesn't provide comprehensive protection in spite of its name.

On the other hand, it seems that the Employees' Social Security has some suggestions even for developed countries' systems. In the case of Japan's social insurance, for example, contribution rates are the same regardless of employees' marital status and spouses' dependency on them. Employees' contributions as a whole fund benefits for non-working spouses including not only health care but also basic old age pension. This kind of courtesy as well as tax break for non-working spouses may discourage them from working because, while they can receive benefits, they

don't have to pay contributions as long as they don't work⁴⁷⁾. Suppose that, facing a rapidly aging society, Japan must raise the labour participation rate of the working age population, tax and social insurance contribution should be neutral for labour participation. In addition, the balance between contributions and benefit opportunities should be considered. From these viewpoints, it is interesting that the Employees' Social Security has a dual contribution rate system for health care benefits according to employees' marital status and their spouses' dependency on them⁴⁸⁾.

Through the review of the laws and regulations regarding the Employees' Social Security, some issues have been pointed out. The system in practice in the context of Indonesia's socio-economic conditions shall be analyzed on the basis of this paper in due time. As everyone knows, this country has been experiencing the economic crisis and the political convulsion triggered by the crisis. It is interesting to see how the Employees' Social Security will develop under such circumstances.

Notes

- 1) Hironobu Sugaya, associate professor of Gifu Keizai University (Japan), is a visiting fellow of Udayana University (Indonesia).
- 2) Cf. Bambang Purwoko, *The Indonesian Social Security System*. Jakarta: PT JAMSOSTEK, 1997, p. 3.
- 3) This regulation was legislated only for increasing the amounts of some benefits. The most part of Regulation No. 14 is still effective.
- 4) Pancasila is the Indonesian state philosophy consisting of five principles. That is to say, the belief in one God; just and civilized humanity; Indonesian unity; democracy under the wise guidance of representative consultations; and social justice for all the peoples of Indonesia. These are listed in the constitution of 1945, although the order and the words are slightly different from the first formulation by Sukarno, the leader of Indonesia's independence and the first president of the Republic of Indonesia.
- 5) The preamble also says, "the Act No. 2 Year 1951 on the Enactment of Accident Act Year 1974 No. 33 of the Republic of Indonesia to the whole of Indonesia (State Gazette Year 1951 No. 3), and the Government Regulation No. 33 Year 1977 on the Employees' Social Insurance (State Gazette Year 1977 No. 54, Supplementary State Gazette No. 3112) have not fully provided social security for the employees and is no longer meeting the need."
- 6) Maternity and childbirth are included in health care benefits.
- 7) Paragraph (2) of this article says, "The development of the Employees' Social Security scheme referred to in paragraph (1) will be provided further under Government Regulation." According to elucidation on Act No. 3, this

- provision is intended to provide for other benefits such as severance benefits.
- 8) Cf. Elucidation on Regulation No. 14 (1. General).
 - 9) See also its elucidation.
 - 10) The Minister means the person in charge of manpower affairs (Article 1 (12), Act No. 3 and Article 1 (5), Regulation No. 14). Unless specified, this is true of the following description.
 - 11) Excessive benefits that have already been received by entitled persons may not be reclaimed (Article 32, Act No. 3).
 - 12) For details on penalty and investigation, see the respective articles.
 - 13) Cf. Elucidation on Article 19 (1) of Act No. 3.
 - 14) See also Article 4 of Regulation No. 14.
 - 15) Article 1 (2) of Act No. 3 says, "Employee means any person who is able to perform work, whether under a contract of employment or not, to produce service or goods to meet the needs of society."
 - 16) Cf. Elucidation on Article 2 (3) of Regulation No. 14.
 - 17) Wage, as the basis of calculating contributions, includes allowances both for employees and families (Article 1 (5), Act No. 3). Monthly wage is the actual wage received by employees in the last one month provided that: in the case of daily wage, monthly wage is equal to daily wage multiplied by 30; in the case of contractual or piece rate wage, monthly wage is calculated from the average of the last 3 months' wage; in the case of seasonal work with contractual wage, monthly wage is calculated from the average of the last 12 months' wage (Article 1 (3), Regulation No. 14).
 - 18) For the details, see attachment I to Regulation No. 14.
 - 19) If work related disease arises within 3 years from the termination of the employment relationship, those who suffer from the disease have the right to employment accident benefits on the basis of an appointed doctor's certification (Article 50, Regulation No. 14).
 - 20) Details are stipulated in ch.IV of Regulation No. 14 and its attachment.
 - 21) In regard to the maximum amount, see Article 1 (3) of Regulation No. 79. That amount was fixed at 3,000,000 rupiahs in Attachment II of Regulation No. 14.
 - 22) Cost guideline has been set forth by Dr. Suharso. Cf. Attachment II of Regulation No. 14.
 - 23) Elucidation on Act No. 3 says, "Considering that mental disorder resulting from work accident is very relative in nature, and difficult to determine its degree of disability, the benefit or compensation is provided only in the event of permanent mental disability resulting in inability to work."
 - 24) Minimum is the same amount as death allowance payable in the case of death not resulting from employment accident. Cf. Article 21 of Regulation No. 14 and the part of Death Benefit described later in this paper.
 - 25) In regard to the funeral expense, see Article 1 (2) of Regulation No. 79. The amount was fixed at 200,000 rupiahs in Attachment II of Regulation No. 14.
 - 26) In regard to the benefit shown by letter (c) (cost of rehabilitation), Regulation No. 14 has no stipulation.
 - 27) Article 11 of Act No. 3 says, "The list of occupational diseases and its subsequent adjustments will be established under Presidential Decree." In accordance with this provision, Presidential Decree No. 22 Year 1993 has been promulgated.
 - 28) The examining doctor is the enterprise's doctor, the doctor appointed by the enterprise, or the government doctor who examined and treated the employee. The advisory doctor is the doctor appointed by the Ministry of Health as recommended by the Minister. Cf. Elucidation on Article 16 of Regulation No. 14.
 - 29) See also article 7, 8 and 9 of Regulation No. PER-05/MEN/1993.
 - 30) In regard to these amounts, see Article 1 (1) of Regulation No. 79. The amounts were fixed at 200,000 rupiahs and 1,000,000 rupiahs respectively in Article 22 (1) of Regulation No. 14.
 - 31) Elucidation on Regulation No. 14 (1. General) says, "the Employees' Social Security administered with funded method will accumulate funds which support the financing of national development."
 - 32) Involuntary as well as voluntary unemployment seems to be included. Cf. Elucidation on Article 15 of Act No. 3.
 - 33) According to elucidation regarding Article 32 of Regulation No. 14, the membership period in this regard includes a non-active as well as active membership period. Employees have active membership while contributions continue to be paid, and non-active membership if contributions are no longer paid. Regulation No. PER-05/MEN/1993 has an article on this respect. That is to say, if employees terminate their employment before the age of 55 years and already possess an active (contribution being paid) and non-active (contribution not being paid) membership period of not less than 5 years, they may apply for benefit payment. The membership period of at least 5 years is calculated from the first payment of contributions (Article 16, Regulation No. PER-05/MEN/1993).
 - 34) According to Article 49 of Regulation No. 14, in the case of employees who are still employed after reaching the age of 55, their membership in the Employees' Social Security shall be continued and employers shall continue to pay contributions for employment accident benefits, old age benefits, death benefits and health care benefits. In case employees opt for receiving old age benefits when they reach 55, however, how to treat the part of old age benefits is not clear.
 - 35) There is no stipulation on a qualifying membership period as in the case of employment termination.
 - 36) The following description is based on Article 14 (2) of Act No. 3, Article 26 of Regulation No. 14 and Article 17 of Regulation PER-05/MEN/1993. Elucidations regarding these articles are also referred to. In case of employees' death before receiving old age benefits, there is no stipulation on qualifying membership period as in the case of employment termination.
 - 37) This stipulation is inconsistent with elucidation on Article 14 of Act No. 3, which intimates periodic payment.
 - 38) There is no mention on the employment status of spouses in Article 1 (4), Regulation No. PER-05/MEN/1993.
 - 39) Outpatient primary care as mentioned later includes

- health guidance, consultation, immunization and so on.
- 40) Cf. Article 16 (2) of Act No. 3 and Article 35 (1) of Regulation No. 14. See also their elucidations. The contents of each part of the Basic Health Care Benefit Package are stipulated in Article 22–28 of Regulation No. PER-05/MEN/1993.
- 41) In certain cases stipulated by the Minister, however, they may obtain health services from other providers. As mentioned later, they may obtain services directly from the nearest health providers in case of emergency. On the other hand, according to Article 35 (2) of Regulation No. PER-05/MEN/1993, health providers appointed by the Executive Body may serve travelling employees and/or their dependents.
- 42) In-patient services are classified into three classes according to the costs (Class 1 is the highest). The differences are the type of room and so on.
- 43) For more details, see Article 39, Regulation No. PER-05/MEN/1993.
- 44) Emergency cases may be excluded.
- 45) Public pension financed by general tax revenue is not suitable considering that the covered population is only a small percentage of the labour force.
- 46) In case of health care benefits, the maximum number of entitled children is limited to three. In addition to the issue of financing, population policy may have influenced this kind of limitation.
- 47) Actually, employees' spouses are exempted from income tax and/or social insurance contributions if their annual income is less than certain amounts, which are stipulated respectively for income tax and social insurance. Considering such a courtesy, many spouses working part time, housewives in most cases, limit themselves from working beyond those amounts of annual income even if it is possible for them to do so.
- 48) Because contributions are borne only by employers, such a system in Indonesia itself seems to intend to secure only the balance between contribution burdens and benefit opportunities.

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