

Implementation Of Fixed-Term Work Agreements Based On Positive Law In Indonesia

Surya Perdana

Universitas Muhammadiyah Sumatera Utara, Indonesia

Email: suryaperdana@umsu.ac.id (Corresponding Author)

Accepted: 28-11-2025. Revised: 06-12-2025 Approved: 08-12-2025 Published: 10-12-2025

DOI: 10.30596/dll.v11i1.27166

How to cite:

Perdana, S. (2026). "Implementation Of Fixed-Term Work Agreements Based On Positive Law In Indonesia", De Lega Lata: Jurnal Ilmu Hukum, Volume 11 (1): p. 91-99

Abstract

An employment agreement, which is the beginning of an employment relationship, can be classified based on its duration. A temporary agreement can be referred to as a fixed-term employment agreement. A permanent agreement is called an indefinite-term employment agreement. A Fixed-Term Employment Agreement (PKWT) is an agreement between an employee and an employer when the parties agree to perform specific work within an employment relationship for a short period of time. Meanwhile, an Indefinite-Term Employment Agreement (PKWTT) is an agreement between an employee and an employer when the parties agree to perform work within an employment relationship for a continuous and fixed period of time. An employment agreement refers to contract law, which is an event in which one person promises to another or where two people mutually promise to carry out something. An agreement is considered valid if it meets the provisions stipulated in Article 1320 of the Civil Code. The requirements for a valid agreement are regulated in Article 1320 of the Civil Code. Article 1 Paragraph (14) of Law Number 13 of 2003 concerning employment states that an employment agreement is: "An agreement between a worker/laborer and an employer or employer containing the terms of employment, rights, and obligations of the parties." Employment agreements are divided into two types: PKWT and PKWTT. Provisions regarding written employment agreements are regulated in Article 54 paragraph 1 of Law Number 13 of 2003 concerning Employment. The provisions, nature, and type of work for fixed-term employment agreements can be seen in Article 59.

Keywords: *Employment, Legal Protection, Specific Time Work Agreement.*

INTRODUCTION

Employment law regulates the employment relationship between workers and employers, or in other words, regulates the interests between individuals or between individuals and legal entities. This employment relationship essentially contains the rights and obligations of workers and employers, where these rights and obligations are reciprocal. These rights and obligations are not only regulated by laws and regulations, but are also based on an agreement between workers and employers, which is then outlined in the form of an employment contract.

Therefore, the employment relationship cannot be separated from the employment agreement made by the worker and the employer (Suhartoyo, 2019).

An employment agreement, which is the beginning of an employment relationship, can be classified based on its duration. A temporary agreement can be referred to as a fixed-term employment agreement. A permanent agreement is called an indefinite-term employment agreement. A Fixed-Term Employment Agreement (PKWT) is an agreement between an employee and an employer when the parties agree to perform specific work within an employment relationship for a short period of time. Meanwhile, an Indefinite-Term Employment Agreement (PKWTT) is an agreement between an employee and an employer when the parties agree to perform work within an employment relationship for a continuous and fixed period of time (Rosifany, 2020).

When workers first start working at a company, there's usually an introductory phase for prospective workers to adapt to the company's existing systems. In addition to the general regulations, each company typically has its own policies, which are communicated to each prospective worker from the outset. This is based on applicable laws, which allow prospective workers to be employed in several employment system categories. Depending on the company's needs and the type of work available, recruitment methods can vary, for example, as casual daily laborers (BHL), outsourcing, fixed-term employment contracts (PKWT), or after a trial period, they can be transferred directly to indefinite-term employment contracts (PKWTT). Currently, Indonesia's economic development is entering a demographic bonus period, with a growing number of productive working age groups in the next few years. This situation demands strengthening the existing regulations within the current employment system to ensure synergy between company production and worker welfare, driven by the professionalism of workers and the regulations governing these. Based on Article 52 of the Manpower Law, both fixed-term and fixed-term employment contracts (PKWT) must contain the elements of an agreement as stipulated in Article 1320 of the Civil Code. The employment agreement must stipulate that the parties involved must be competent by age and not in a state of remission. The parties must mutually agree to enter into the agreement without coercion, threats, or error. Furthermore, the agreement must contain a lawful object, one that does not conflict with the law or public order. When an employment agreement complies with these provisions, a legitimate employment relationship is created between the employee and the employer, for which both parties are accountable. In practical employment relationships, it is also crucial to apply the principles of labor development, namely democracy, justice, and equity, which are fundamentally aligned with the goals of national development.

The changes to the regulations regarding fixed-term employment contracts, which can be found in Chapter IV concerning employment in the Job Creation Law, have generated considerable public opposition, especially from workers. Workers believe that several new provisions regarding PKWT (Fixed Term Contracts) are detrimental to their rights, such as the lack of written PKWT policies and the lack of sanctions for violators. These provisions will undoubtedly lead to employers' arbitrary violations of workers' rights, as there is no physical evidence governing all the provisions agreed upon in the employment agreement, and there are no legal consequences to discourage or deter workers from repeating the violations. This will create legal uncertainty within the employment relationship and throughout the duration of a

project or project. Workers also lack the opportunity and timeframe to find new employment after the PKWT expires. This potential loss for workers is likely due to the lack of regulations governing and requiring employers to notify employers of extension and renewal periods when PKWT contracts are about to expire.

METHOD RESEARCH

The research method applied in this study is a normative research approach that emphasizes norms, regulations, or principles that should be followed. This research is prescriptive in nature, examining the relationship between legal principles, legal norms, legal rules, and individual behavior in the context of legal science. The approach used is library research. This library research was conducted by reviewing various relevant literature sources, both theoretical and practical, to analyze legal aspects, policies.

DISCUSSION

1. Regulations On Fixed-Term Employment Agreements In Indonesia

The regulation of the right to work in Indonesia is based on the provisions of Article 28 D (2) of the 1945 Constitution of the Republic of Indonesia, namely that everyone has the right to work and to receive fair and proper compensation and treatment in employment relations. The right to work, according to the provisions of Article 7 - Article 15 of Law No. 11 of 2005 (concerning the ratification of the International Covenant on Social, Economic and Cultural Rights) LN of 2005 No. 119 TLN No. 4557) includes: the right to just and favorable working conditions; the right to form and join a Trade Union; the right to social security and social insurance; protection and assistance for the family; the right to a decent standard of living; the right to the highest standard of physical and mental health; the right to education and the right to culture and to the benefits of scientific progress (Abduh, 2022).

An employment agreement refers to contract law, which is an event in which one person promises to another, or where two people mutually promise to carry out something. An agreement is considered valid if it meets the provisions stipulated in Article 1320 of the Civil Code. The purpose of an agreement is none other than the purpose of the law itself, namely to provide protection and justice for the parties entering into the agreement. One way to protect the parties in an employment agreement is by implementing a balance.

According to Subekti, an employment agreement is: An agreement between a "worker" and an "employer," which is characterized by the existence of a specific agreed wage or salary and a relationship between the parties, known in Dutch as *dienstverhouding*, namely, one based on which one party (the employer) has the right to issue orders that must be obeyed by the other party. Meanwhile, a work contract agreement is: An agreement between one person (the party contracting out the work) and another (the party contracting out the work), where the first party requires a certain work result that the other party undertakes, in exchange for payment of a certain amount as the contract price (Subekti, 1995).

Article 1 Paragraph (14) of Law Number 13 of 2003 concerning employment, an employment agreement is: "An agreement between a worker/laborer and an entrepreneur or employer which contains the terms of employment, rights and obligations of the parties". Employment agreements are divided into 2, namely:

1. A fixed-term employment agreement (PKWT) is an employment agreement between a worker/laborer and an employer to establish an employment relationship for a specified period of time and for a specific job. The requirements are: It must be written (Article 57 paragraph 1); it must be based on a time period and based on the completion of a specific job (Article 56 paragraph 2); it must be applied to certain jobs that, based on the type, nature, and activities of the work, will be completed within a specified period, a maximum of three years; it must be seasonal; it must be related to a new product, or an additional product that is still in the experimental or exploratory phase (Article 59).
2. An indefinite-term employment agreement (PKWTT) is an employment agreement between a worker/laborer and an employer to establish a permanent employment relationship. The validity period of the PKWTT expires when the worker/laborer reaches retirement age, the worker/laborer is terminated, or the worker/laborer dies. It can be written or not. If it is verbal, the employer is obliged to issue an appointment letter for the worker/laborer concerned.

An employment agreement is a type of general agreement, so the general requirements for a valid agreement as stipulated in Article 1320 of the Civil Code also apply to the validity of an employment agreement. The contents of an employment agreement outline the rights and obligations of the employee and the rights and obligations of the employer. This can be seen in Article 52 of Law Number 13 of 2003 concerning Manpower, namely:

1. An employment agreement is made on the basis of, First, the agreement of both parties. The agreement of the parties entering into the employment agreement regarding the agreed matters. The employee accepts the job offered by the employer, and the employer also accepts the employee to be employed, Second, the ability or competence to perform legal acts. Both parties in the employment agreement, namely the employee and the employer, are competent to make the agreement. Based on Article 1 number 26 of Law Number 13 of 2003 concerning Manpower, the age limit for making an agreement is a minimum of 18 years old. In addition, a person is said to be competent to make an agreement if he is not mentally disturbed or sane, Third, the existence of the agreed work. Work here is the object of the employment agreement between the employer and employee, which legally gives rise to rights and obligations for the parties, Fourth, the agreed work does not conflict with public order, morality, and applicable laws and regulations. Work as the object of an employment agreement must be halal, in an employment agreement the type of work is something that must be clearly stated.
2. Work agreements made by the parties that conflict with the provisions as intended in paragraph (1) letters a and b can be cancelled.

An employment agreement made by the parties that contradicts the provisions referred to in paragraph (1) letters c and d is null and void.

The specific time period for this PKWT is regulated in Article 59 paragraph 4 of Law Number 13 of 2003 concerning Manpower, namely for a maximum of 2 years and may be extended once for a maximum of 1 year. Regarding certain jobs here, employers may only employ contract employees based on four types and nature of work only, namely, work that is completed once or is temporary in nature, work that is estimated to be completed within a maximum of three years, seasonal work, and work related to new products, new activities, or additional products that are still in the experimental or exploratory stage (Maulinda, 2016).

In industrial relations, the term employment agreement is often used. An employment agreement can be formed when two parties, namely the employer (entrepreneur) and the employee (worker), fulfill their obligations. This will result in an employment relationship. An employment relationship can occur when there is an order, there is work assigned, and there is wages paid. An employment relationship can occur when both parties reach an agreement, which is implemented in the form of an employment agreement. By agreeing to an employment agreement, an employee has a legal relationship with their employer in the form of obligations that must be carried out at their place of work. When drafting an employment agreement, it is necessary to pay attention to existing provisions, such as it must be made in written or verbal form adjusted to the criteria of the work to be carried out. Both parties concerned must agree to the existing employment agreement, each party has the capacity to carry out legal acts, there is work agreed upon, and the work agreed upon does not conflict with public order, morality, or enforced regulations. Article 56 paragraph (1) of the Employment Law divides two types of employment contracts, namely PKWT (contract employment) and PKWTT (permanent employment). The nature or activity of the work carried out is the main thing that differentiates the two. Previous provisions did not divide or specify the types of work in PKWT. In addition, when wanting to start an employment relationship, an agreement must be made between the two parties, which is stated in an employment agreement.

The provisions regarding employment agreements themselves have been specifically regulated in the Manpower Law, however, along with the enactment of the Job Creation Law, several provisions in the Manpower Law have changed. However, the rules regarding the validity of an employment agreement have not changed, as stipulated in Article 52 of the Manpower Law, which stipulates that an employment agreement must meet at least four basic requirements, including agreement between both parties; the ability or capacity to perform legal acts; the existence of the agreed-upon work; and the agreed-upon work does not conflict with public order, morality, and applicable laws and regulations. Failure to fulfill the requirements in points a and b can result in the employment agreement being cancelled, and failure to fulfill the requirements in points c and d can result in the employment agreement being null and void (Tapan, 2019).

Referring to these provisions, the general requirements for a valid agreement as stipulated in Article 1320 of the Civil Code are similar to the requirements for a valid employment agreement as stipulated in Article 52 of the Employment Law, except that in the Employment Law, the object of the agreement has been determined more specifically, namely the existence of work. In the Employment Law, employment agreements can be distinguished into fixed-term employment agreements (PKWT) and indefinite-term employment agreements (PKWTT). The fundamental difference between fixed-term employment agreements and indefinite-term employment agreements lies in their duration. A fixed-term employment agreement is an agreement between a worker and an employer to establish an employment relationship for a specified period, while an indefinite-term employment agreement is an agreement between a worker and an employer to establish an employment relationship that is permanent. In the Job Creation Law, the provisions that have undergone the most changes are those governing fixed-term employment agreements.

2. Legal Protection For Workers In Fixed-Term Work Agreements

Based on the provisions in Article 1 point (14) of Law Number 13 of 2003 concerning Manpower, what is meant by an employment agreement is an agreement between a worker/laborer and an entrepreneur or employer that contains the terms of work, rights, and obligations of the parties. Basically, an employment agreement is only made by two parties, namely the entrepreneur or employer and the worker or laborer. Regarding what matters are agreed upon, it is entirely up to both parties, namely between the entrepreneur or employer and the worker or laborer. If one of the parties does not agree, then in the provisions there will be no employment agreement, because in the rules the implementation of an employment agreement will be established properly if both parties fully agree without any coercion. Employment agreements made in writing or orally must be implemented in accordance with statutory regulations. Legally, based on the provisions of Article 1 point (15) of Law Number 13 of 2003 concerning Manpower, an employment relationship is a relationship between an employer and a worker/laborer based on an employment agreement, which has elements of work, wages, and orders. Based on the description above, there is a mutually related relationship between the employment agreement and the work relationship, this will result in a work relationship that occurs between the employer/businessman and the worker/laborer. In practice, even though the type of work is permanent, the existing PKWT has never been upgraded to an Indefinite Term Work Agreement (PKWTT) as regulated in Article 15 paragraph (2) of the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 100/MEN/VI/2004 concerning the Implementation Provisions for Fixed Term Work Agreements which states that "In the event that the PKWT is made without fulfilling the provisions as referred to in Article 4 paragraph (2), or Article 5 paragraph (2), then the PKWT changes to a PKWTT from the time the work relationship exists." In fact, to avoid changing status from PKWT to PKWTT, companies tend to use workers with outsourcing status.

Legal protection for fixed-term employment contracts (PKWT) is crucial for safeguarding workers' rights. Legally, every worker has the right to equal opportunity to obtain employment and a decent living regardless of gender, race, ethnicity, or religion, including equal treatment for persons with disabilities. Regarding specific protection for workers/laborers, particularly those with Fixed-Term Employment Agreements (PKWT), Law No. 13 of 2003 concerning Manpower is expected to provide labor protection from three aspects: social protection, economic protection, and technical protection. Legal protection aims to provide certainty of workers' rights and recognition of their status, particularly in the case of contract workers whose employment period does not comply with statutory provisions. In this regard, contract workers also have the right to obtain certainty regarding their status for the welfare and continuity of their lives, just as permanent workers do.

Regarding specific protection for workers/laborers, particularly those with Fixed-Term Employment Agreements (PKWT), Law No. 13 of 2003 concerning Manpower is expected to provide labor protection seen from 3 aspects, namely: social protection, economic protection, and technical protection.

The legal status of PKWT workers whose implementation of PKWT is contrary to the regulations, namely Article 59 of Law No. 13 of 2003 concerning Manpower, by law changes to PKWTT. In addition to Article 59 of the Manpower Law, the Decree of the Minister of Manpower No. KEP.100/MEN/VI/2004 concerning the provisions for implementing fixed-

term work agreements as referred to in Article 15 paragraphs 2 and 4. Based on the explanation of Article 59 paragraph (7) of the Manpower Law and Decree of the Minister of Manpower No. KEP.100/MEN/VI/2004 Article 15 paragraph (2), the legal status of workers bound by PKWT in conflict with the law becomes PKWTT (permanent workers). If the worker is laid off, he is entitled to severance pay, compensation for rights, and work period reward money according to the length of service. This is regulated in Article 156 paragraph (1) of Law No. 13 of 2003 concerning Manpower, which states: "In the event of termination of employment, the employer is required to pay severance pay and/or work period reward money and compensation for rights that should be received." Based on the explanation regarding the analysis of the judge's considerations above regarding PKWT changing to PKWTT which is a change in the legal status of the worker. That the researcher analyzes based on the theory of legal protection and contract law. The judge provides legal protection for workers in the form of protection for the transition of PKWT status to PKWTT even though it has been regulated in the Law regarding legal transitions, but the transition status is a worker's right which is the welfare of the worker and his family.

Therefore, when a worker is laid off, they are entitled to their rights after the termination of the employment relationship. Regarding the employment agreement, from the legal theory of contracts, the agreement executed by the defendant and plaintiff meets the requirements of the principle of binding force (*pacta sunt servanda*) and the requirements for a valid agreement. The principle of binding force is a rule that becomes binding after an agreement has been reached and the requirements for a valid employment agreement have been met. However, the implementation of the PKWT (Fixed Term Contract) contravenes statutory regulations. These deviations from the implementation of the employment agreement include the type and nature of the work and the failure to extend or renew the employment contract. Although a PKWT is a written and binding agreement, if the implementation of the employment agreement is violated or does not comply with statutory regulations, the agreement is void.

According to the provisions of the Manpower Law, there are two types of employment agreements regulated by the law: PKWTT (Work-Only Temporary Employment Agreement) and PKWT (Work-Only Temporary Employment Agreement). PKWT itself is regulated by Article 57 of the Manpower Law, namely an agreement made in writing and drawn up using Indonesian and the Latin alphabet. This PKWT has experienced deviations in its implementation and it cannot be denied that there are still many companies that do not or have not made written work agreements due to the inability of human resources or because of the custom so that on the basis of trust they make work agreements verbally. (Fahrojih, 2014) Employees are the party who feels the most loss due to deviations from the agreement, so there is a need for legal protection for employees. Deviations in work agreements cause unrest for contract employees with the PKWT system, because it has an impact on the temporary work status and without clear legal protection for those who work in companies using PKWT made verbally or not recorded.

Conclusion

An employment agreement refers to contract law, which is an event in which one person promises to another or where two people mutually promise to carry out something. An agreement is considered valid if it meets the provisions stipulated in Article 1320 of the Civil

Code. The requirements for a valid agreement are regulated in Article 1320 of the Civil Code. Article 1 Paragraph (14) of Law Number 13 of 2003 concerning employment states that an employment agreement is: "An agreement between a worker/laborer and an employer or employer containing the terms of employment, rights, and obligations of the parties." Employment agreements are divided into two types: PKWT and PKWTT. Provisions regarding written employment agreements are regulated in Article 54 paragraph 1 of Law Number 13 of 2003 concerning Employment. The provisions, nature, and type of work for fixed-term employment agreements can be seen in Article 59.

The Job Creation Law adds a provision to Article 56, namely paragraph (3), which states that the term or completion of a fixed-term employment agreement is determined based on the employment agreement. Furthermore, Article 59 of the Job Creation Law removes the fixed-term provisions from PKWT (Working Permits). In this case, the a quo article has the potential to provide loopholes for employers to extend PKWT contracts with workers at will due to the lack of a time limit and stipulations on how many times PKWTs can be extended. In fact, this allows for the employment contracts of elderly workers to be continuously extended until they become permanent employees. This is certainly very likely to occur due to the workers' more vulnerable position compared to more powerful employers. Therefore, the provisions of Article 56 paragraph (3) and Article 59 of the Job Creation Law are considered to be detrimental to workers bound by PKWTs and increase the opportunity for labor exploitation.

REFERENCES

- Ivena A. K. Tapan, 'Berakhirnya Perjanjian Kerja Antara Pekerja/Buruh Dengan Pengusaha Menurut Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan', *Lex Privatum*, 7.2 (2019), 20– 27.
- Ony Rosifany, 'Perlindungan Hukum Terhadap Pekerja Perempuan Menurut Ketentuan Undang-Undang Ketenagakerjaan', *Legalitas*, 4.2 (2020), 36–53.
- R. Subekti. 1995. *Aneka Perjanjian*, Cet 10, Bandung: PT Citra Aditya Bakti.
- Rachmad Abduh, "Perspektif Kesejahteraan Tenaga Kerja Dengan Model Penetapan Upah Minimum Kabupaten Kota", *IURIS STUDIA: Jurnal Kajian Hukum*, Vol. 3 No. 1 Tahun 2022, hlm 38-44.
- Rizqa Maulinda, dkk, "Perlindungan Hukum Bagi Pekerja Kontrak Waktu Tertentu Dalam Perjanjian Kerja Pada PT. Indotruck Utama", *Kanun Jurnal Ilmu Hukum*, Vol. 18, No. 3, (Desember, 2016), hlm 337-351.
- Rosifany, Ony. "Perlindungan Hukum Terhadap Pekerja Perempuan Menurut Ketentuan Undang-Undang Ketenagakerjaan." *LEGALITAS: Jurnal Ilmiah Ilmu Hukum*, Vol. 4, No. 2 Tahun 2020, halaman 36-53.
- Suhartoyo, "Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional", *Jurnal Administrative Law & Governance Journal*, Vol. 2 No. 2 Tahun 2019, halaman 326–36.