



## Change of Fixed Allowance Wage System to Performance Incentive

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**Abstract:** In the context of Indonesian labor law, this research looks at how the wage system changed from fixed allowances to performance incentives. This research aims to study the legal consequences of the change in Law Number 13 Year 2003 on Manpower, specifically Article 55, Article 92, Article 110, and Article 111 letter (b). Based on primary and secondary legal materials, this research uses a normative legal method with a qualitative descriptive approach. The results show that workers can experience negative impacts if fixed allowances are converted into performance incentives. This is especially true when calculating severance pay related to fixed allowances. Companies can review the wage structure under Article 92; however, this must be done with the involvement of workers, as stipulated by Article 110 and Article 111 letter (b). In addition, Article 55 confirms that employment agreements cannot be changed unilaterally without the consent of both parties. Analysis of case law shows that violations of these principles can lead to industrial relations conflicts. Therefore, it is important to ensure that changes to the wage system are made with worker involvement, transparency, and in compliance with applicable laws. This research concludes that stricter regulations and government supervision are needed to ensure that wage policy changes are fair and protect workers' rights, while creating harmonious industrial relations.

**Keyword:** Fixed Allowances, Performance Incentives, Wages, Labor Law, Worker Protection.

### INTRODUCTION

According to Law Number 13 of 2003 concerning Manpower, wages are the rights of workers or laborers who are received and expressed in the form of money as compensation from employers or employers to workers or laborers who are determined and paid according to an agreement or statutory regulations including benefits for workers or laborers and their families for work and or services that have been or will be performed, therefore it can be interpreted that wages are the basic rights of workers that must be fulfilled by employers (Wibawa, 2023).

The Job Creation Law also emphasizes the structural wage allowance which has 2 specifications, the first is fixed allowances and also non-permanent allowances. Incentive wages are actually a form of motivation expressed in the form of money (Vendy et al., 2015).

The definition of wages according to experts is according to Sadono Sukirno, wages are payments for physical services provided by labor to entrepreneurs (Sinungan, 2005) Meanwhile, according to Malayu SP. Hasibuan, wages are compensation paid to daily workers based on the agreement agreed to pay it (Malayu et al., 1997)

The amount of wages is outlined in a work agreement that contains the amount of salary, allowances, and mandatory deductions that are deposited. Some allowance arrangements are also contained in company regulations.

According to Iman Soepomo, "a work agreement is an agreement in which the first party, the laborer, binds himself to work by receiving wages to the other party, the employer, who binds himself to work on the laborer by paying wages"(Soepomo, 1992).Furthermore, regarding the understanding of employment agreements, Subekti also responded that, "an employment agreement is an agreement between a "worker" and an "employer", which agreement is characterized by the following characteristics: the existence of a certain salary agreed upon and the existence of a relationship at the top (Dutch *dierstverhanding*), namely a relationship based on which one party (employer) has the right to give orders which must be obeyed by the other party " (Subekti, 1979).

The change in the fixed allowance scheme contained in the employment agreement is changed to use benefits that are not regulated in company regulations on the pretext that the wages earned by workers will be more, of course, this effort provides a loss because it contradicts the provisions of Article 55 of Law Number 13 of 2003 concerning Manpower, which reads: "Work agreements cannot be revoked and / or changed, except by agreement of the parties" to employees because of the change in the status of the allowance where the calculation of severance pay at retirement also takes into account the benefits received during work.

In its development, the scheme and wage system for workers have experienced various developments, from the basic salary system to the present where the wage scheme contains allowances and other benefits. The laws and regulations have contained and written about the legal protection of how the salary / benefit scheme can be given to employees and workers. The regulations also contain the rights and obligations of workers so that there is legal protection for workers and employers.

Circular Letter of the Minister of Manpower No. 07 of 1990 defines the wage components of fixed allowances, non-permanent allowances, non-wage income, and other legal income earned by workers. The definition of fixed allowance in the Circular is "a regular payment related to work that is provided on a regular basis for workers and their families and is paid in the same unit of time, with the payment of basic wages, such as Wife Allowance; Child Allowance; Housing Allowance; Expense Allowance; Regional Allowance and others. Meal Allowance and Transportation Allowance can be included in the fixed allowance component if the provision of the allowance is not linked to attendance, and is received regularly by workers according to units of time, daily or monthly."

In the above understanding, we can examine that performance incentives are categorized as non-permanent allowances, because performance allowances are obtained through performance appraisals. The mention of performance incentives as a fixed allowance cannot be justified because if an allowance is categorized as a fixed allowance, its provision cannot be linked to performance in the company.

Article 111 paragraph (1) letter b states that company regulations contain the rights and obligations of workers where workers' rights also contain wages and benefits that will be obtained during work.

In the establishment and amendment of company regulations stipulated in Article 110 paragraph 1 contains provisions for the formation of which involves workers by taking representation from the workers. The provisions regarding representation are contained in the provisions of paragraph 2 and paragraph 3 of Article 110 of Law No. 13 Year 2003.

The problem then arises if the labor representatives/workers who represent the employees agree to changes in the rules regarding fixed allowances that change to performance incentives on the pretext that the wages earned will be more than using fixed allowances, of course this is a disadvantage for some parties who will use severance pay calculations using their fixed allowances.

Based on the description above, an interesting paper can be obtained to discuss the legal consequences arising in articles 110 and 111 letter (b) regarding changes in company regulations and article 55 regarding work agreements in the wage scheme regarding allowances based on Law No. 13 of 2003 concerning Manpower seen through case verdict Number 12/Pdt.Sus-Phi/2020/Pn.Jayapura between Pt Sinar Kencana Inti Perkasa and Ir Yulius Matippana and various legal considerations of judges in deciding cases of changes in the work allowance wage system to performance incentives.

## METHOD

In this writing the author conducts research using normative legal research methods or library legal research, namely research that mainly uses library materials or secondary data (Soekanto & Mamudji, 1983). According to Soetandyo Wignjosoebroto, normative legal research is specifically to examine the law as a positive norm, as it is written in the books or what is more appropriately referred to as doctrinal research (Wignjosoebroto & Soetandyo, 2002). Doctrinal research departs from normative postulates called positive legal norms and doctrines (Sunggono, 1997). The primary legal material in this research is Law Number 13 of 2003 concerning Manpower; secondary data is used because primary and secondary legal materials are collected through library research. However, secondary legal materials consist of literature that has been published on the subject under study. Furthermore, a qualitative descriptive analysis was conducted on the legal materials obtained from desk research.

## RESULTS AND DISCUSSION

**The Legal Consequences Arising in Articles 110 and 111 Letter (B) Regarding Changes in Company Regulations and Also Article 55 Regarding Labor Agreements in the Wage Scheme Regarding Fixed Allowances to Performance Incentives Against Article 92 Changes in Wage Structure Based on LAW NO. 13 OF 2003 CONCERNING MANPOWER SEEN THROUGH CASE DECISION NUMBER 12/PDT.SUS-PHI/2020/PN.JAYAPURA BETWEEN PT Sinar Kencana Inti Perkasa and Ir Yulius Matippana**

### Company Regulations

Company regulations based on the Manpower Law are defined as regulations made in writing by employers that contain working conditions and company rules (Pratiwi & Suharyanti, 2020). The term "company regulation" is a translation of company regulation from English and *Bedrijf Reglement* from Dutch, because it is a "regulation" it is unilateral and only made by employers, so basically employers can include whatever they want (Husni & Asyhadie, 2012).

Company regulations at least contain several provisions, namely: a. rights and obligations of employers; b. rights and obligations of workers; c. working conditions; d. company rules; e. period of validity of company regulations. The contents of the company regulations must not contradict the prevailing laws and regulations, and must not be lower than the laws and regulations (Maswandi, 2017).

In point (b) workers have the right to obtain wages/salaries. The right to receive wages or salaries is regulated in Article 1 number 30 which reads: "Wages are the rights of workers/laborers who are received and expressed in the form of money as compensation from employers or employers to workers/laborers who are determined and paid according to a work agreement, agreement, or laws and regulations, including benefits for workers/laborers and their families for work and/or services that have been or will be performed".

In this case, companies can make and change company regulations in accordance with what is needed by the company itself. Provisions for the amendment of company regulations are regulated in Article 110, namely with the representation of employees, so that company regulations are a form of agreement between employers as employers and also employees as workers.

Company regulations can be made by employers, but must not be detrimental to workers. For this reason, workers' contribution to the meaning of company regulations is more than a formality. Employers must understand that workers are the ones who will be both the target and the perpetrators of company rules. To make company regulations effective, workers must socialize and share their opinions from the beginning of the process.

In company regulations in the regulation of article 111 letter (b), companies can contain workers' rights, one of which is about wages, which in the wage component is an allowance, if the allowance is still changed, the employee can be given the option whether or not to accept the company's decision.

### **Employment Agreement**

Work Agreement is a bond or agreement held between workers or trade unions that have been registered with the labor department and employers or associations of employers who are legal entities, which generally or solely contain working conditions that must be considered in the employment agreement(W & Ramadhani, 2019).

The obligation to provide benefits by employers includes the types of benefits that should be granted to workers based on applicable laws and regulations, as stipulated in Law Number 13 of 2003 concerning Manpower(Bansaleng et al., 2024).

In Law No. 13 of 2003, it has been determined that the content in the employment agreement is the amount of wages and also the method of payment, and the content also contains the amount of benefits and types of benefits received.

Article 55 of Law No. 13 Year 2003 emphasizes that employment agreements cannot be revoked and/or amended, except by agreement of the parties. This is an affirmation that the agreement that has been agreed between the employer and the recipient of the work cannot be changed in content or meaning in the agreement.

In case decisions Number 12/Pdt.Sus-Phi/2020/Pn.Jayapura between PT Sinar Kencana Inti Perkasa and Ir Yulius Matippanahakim considers the definition of performance incentives as an allowance that is not fixed because the value changes every month and is based on company performance. Further consideration in Article 55 of Law Number 13 of 2003 concerning Manpower which the Plaintiff refers to regarding irrevocable employment agreements without the consent of the parties is not related to the structure of wage preparation. So the consideration of the judge who decided that the company must pay the remaining severance pay using the calculation using a fixed allowance can be said to be inaccurate, because in the regulations and provisions contained in the law and the considerations contained in the decision there is nothing that provides provisions for reassigning performance incentives to fixed allowances to these workers.

The judge's consideration in the decision also contains provisions regarding the calculation of wages confirmed in Article 157 paragraph (1) letters a and b of Law Number 13 of 2003 concerning Manpower which states that the wage component used as the basis for calculating severance pay, long service pay and compensation pay consists of basic wages and all forms of fixed benefits provided to workers / laborers and their families.

Wages are earned through an employment relationship arising from a work agreement between the employee and the employer. The work agreement contains the employee's commitment or willingness to perform work for the employer in exchange for compensation in the form of wages. The employer, in turn, agrees to provide work in accordance with the terms of the agreement(Pertiwi et al., 2025).

This is also an indication and affirmation that allowances remain part of the wage structure where the inclusion of the amount is agreed upon in the employment agreement. Changes to work agreements according to Article 55 of the 2003 Labor Law can be made if they are approved by both the employer and the worker.

### **Conflict Between Article 110 and 111 Letter (B) Regarding Changes in Company Regulations and Article 55 Against Article 92 Regarding Work Agreements in Wage Schemes Regarding Allowances Based on Law no. 13 of 2003 Concerning Manpower**

Changes to company regulations according to articles 110 and 111 letter (b) of Law No. 13 Year 2003 can be made with the representation of several employees. This can be one of the loopholes where the representation can only be a formality requirement between workers and employers.

As we see in the case regarding the change in wage status between PT Sinar Kencana Inti Perkasa and Ir Yulius Matippana, where some employees who followed the rule change agreed while those affected by the rule did not know about the change in benefit status.

The values of legal certainty in labor law must be integrated with the values of justice and benefit. Legal certainty in regulations will be adhered to by both workers and employers if they are beneficial and provide fairness to them (Ibrahim, 2015).

Unilateral changes in wage status made by the employer cannot be justified because they violate the provisions in Article 55 of Law No. 13 of 2003 concerning Manpower, which emphasizes that work agreements cannot be revoked and / or changed, except by agreement of the parties.

However, according to the judge's decision, this cannot be justified and the company is obliged to provide the shortage of the remaining severance pay given to the recipient of the work.

In article 92 of the employment law reads

- (1) Employers can formulate wage structures and scales by taking into account class, position, length of service, education, and competence.
- (2) Employers can periodically review wages by taking into account the company's ability and productivity.
- (3) Provisions regarding the structure and scale of wages as referred to in paragraph (1) shall be regulated by Ministerial Decree. it is not explicitly explained that changes to the wage scheme or scale must be represented by employees.

In the consideration of the judge in the above case, the judge considered Article 92 of Law Number 13 Year 2003 concerning Manpower, mandating companies to compile a wage scale structure and conduct periodic wage reviews by taking into account the company's capabilities (Korida & Muhsin, 2021)

With the addition of a formulation in the form of regulations regarding the scheme of performance incentives as part of the company's options, it ensures legal certainty for employees based on the work achievements attained (Rachmandita, 2021).

In addition to providing legal certainty in granting incentives to employees, incentive wages are essentially a form of motivation expressed in monetary terms. This can also enhance employee productivity. (Vendy et al., 2015)

### **Legal Considerations of Judges in Deciding Cases of Changing the Fixed Allowance Wage System to Performance Incentives**

Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes classifies industrial relations disputes into four types: disputes over rights, disputes over interests, disputes over termination of employment, and disputes among workers/laborers within a company. The judge ruled that changes in the wage system fall under the category of disputes over rights (Hendrik et al., 2023).



Changes to the Wage System According to the judge, the changes to the wage system of the position held by the Defendant company, namely changing the fixed allowance to a non-permanent allowance without the Plaintiff's consent, was an act contrary to the provisions of the law. The change was also said to violate the Minister of Labor's Circular Letter No. SE 07/MEN/1990 on Wage Grouping which distinguishes between fixed and non-permanent wage components.

In this case, the Judge found that in the calculation of severance pay by the Defendant, not all elements that should have been calculated by the Defendant were calculated, for example certain fixed benefits previously received by the Plaintiff. The judge recalculated the plaintiff and decided that the Plaintiff was entitled to receive gross severance pay of Rp1,377,664,511.00 and the Defendant must pay the difference in severance pension compensation of Rp1,120,931,715.00.

In the process of resolving the case the plaintiff has taken the bipartite and mediation paths that have been regulated in Law No. 2 of 2004 concerning industrial problem solving, but did not find a meeting point or a middle point in resolving the severance pay issue.

In his legal reasoning, the judge considered several components of the severance pay calculation, including separation pay for 4 months amounting to Rp172,567,020 and long leave entitlement of Rp43,141,755.

In guaranteeing the verdict the judge considered granting the defendant's claim for security deposit (DWANGSONG) charged to the defendant in the amount of Rp1,000,000.00 for each day of delay in implementing the decision.

In the final decision, the judge looked at and considered the evidence and the facts revealed during the trial and stated that the defendant's actions in converting the fixed allowance into performance incentives had violated the plaintiff's normative rights. Therefore, the judge decided to grant the plaintiff's claim in part and ordered the defendant to fulfill all obligations to pay the plaintiff's rights in accordance with the verdict.

This means that the judge orders the employer to perform a specific legal action, namely paying the remaining severance pay. If this is not carried out, the employer is deemed to have committed an unlawful act, as their actions violate the rights of others (Sejati, 2018).

## CONCLUSION

This research examines the legal implications of changes in the wage system, particularly the transformation of fixed allowances into performance incentives in the context of employment in Indonesia. The changes cover key issues such as workers' rights, legal protection in employment agreements, as well as the mechanism for changing company regulations as stipulated in Law Number 13 Year 2003 on Manpower.

Based on the results of the analysis, it is found that changing fixed allowances to performance incentives can have significant legal impacts. The fixed allowance is a component of wages that is fixed and sustainable, so it becomes the basis for calculating severance pay and other benefits. In contrast, performance incentives, which depend on workers' performance assessments, do not have the certainty of fixed allowances, thereby reducing legal protection for workers in terms of severance and other long-term rights.

The contradiction between Article 92, Article 110, Article 111 letter (b), and Article 55 of the Manpower Law is also a major highlight. Article 92 authorizes companies to review the structure and scale of wages based on class, position, length of service, and competence. However, the flexibility provided by this article must still comply with the provisions in Article 55, which states that labor agreements cannot be changed without the consent of both parties. In addition, Article 110 and Article 111 letter (b) stipulate that changes to company regulations must involve input from workers, ensuring that their rights remain protected.

Through a case study of court decision No. 12/Pdt.Sus-PHI/2020/Pn.Jayapura, it is revealed that changes in wage policies made unilaterally by employers without the consent of

workers violate the principles of justice and legal protection stipulated in the Manpower Law. The judge in this case emphasized that changes to the wage system must be made by taking into account the agreement of both parties and the impact on workers' rights that have been regulated in the employment agreement.

This research also shows the importance of workers' active participation in the process of making and changing company regulations. Socialization and dialogue between employers and workers must be carried out from the beginning to ensure that the policies taken do not only benefit one party, but also create a fair balance of interests.

Thus, it can be concluded that changes to the wage system involving the transformation of fixed allowances into performance incentives must be done carefully, transparently, and in compliance with applicable legal provisions. A collaborative approach between employers and employees is needed to prevent industrial relations conflicts that could harm both parties. In addition, clearer regulations and strict supervision from the government are essential to ensure that wage policy changes are carried out in accordance with the principles of justice and legal protection for workers.

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