



**GOVERNMENT REGULATION NO 35 OF 2021  
ON  
FIXED TERM EMPLOYMENT CONTRACT,  
OUTSOURCING, WORKING TIME AND REST TIME,  
AND TERMINATION**

**ADRIANI  
DIRECTORATE GENERAL OF INDUSTRIAL RELATION AND  
WORKER'S SOCIAL SECURITY**

**MINISTRY OF MANPOWER**

## I. General Principles of Fixed Term Employment Contract (PKWT)

- ❖ **Cannot** be apply for **permanent job**
  - The meaning of “permanent job” is a job that continuous in nature, it’s not intermittent, not limited by time, and it is part of the production process in a company or a non seasonal job.
- ❖ **Cannot** require a **probationary period**.
- ❖ **Extensions of contract can be made and the work period of the worker/labor is calculated** since the employment relationship occurs based on PKWT.

## II. The Characteristic & Types or Activities of Work in PKWT

### PKWT based on the time period

- ❖ For the characteristic & types or Activities:
  - a. The Job which the **time of completion is expected not too long → a maximum of 5 years;**
  - b. Seasonal Work (depending on season/weather/certain conditions as additional work); or
  - c. The job which is related to new products, new activities, or an additional products that is still in the experimental stage or try-out phase.
- ❖ This PKWT can be made for a maximum of 5 years.
- ❖ Can be extended according to the agreement with the provisions of the entire PKWT and the extension of not more than 5 years.

### PKWT is based on the completion of a certain job

- ❖ For the characteristic & types or Activities:
  - a. Work to be performed and completed at once; or
  - b. Work which is temporary by nature.
- ❖ Can be extended up to a certain time until the completion of work.

### Daily Work Agreement (PKH)

- ❖ This Work Agreement for Specified time is carried out for certain other jobs which is types and characteristic or activities are not permanent → Certain jobs that change in terms of the time and volume of work and the payment of wage based on attendance.
- ❖ Workers work less than 21 days in 1 month.

### III. COMPENSATION (MONEY)

- ❖ It is mandatory → subject to administrative sanctions.
- ❖ Compensation is given at the end of the PKWT.
- ❖ Compensation is given to workers who **have worked at least 1 month continuously**, with the following conditions:
  - a. **PKWT for 12 months continuously**, equal to 1 month of wage.
  - b. **PKWT for 1 month or more but less than 12 months**, are calculated proportionally, by calculating the working period divided by 12 and multiplying by 1 month of wage.
  - c. **PKWT more than 12 months** are calculated proportionally, namely by dividing the working period by 12 and multiplying by 1 month of wage.
- ❖ If the PKWT extended, compensation is given:
  - a. when the PKWT period ends before the extension; and
  - b. after the extended of PKWT period ends or finished.
- ❖ In the event that PKWT is based on the completion of a job, the calculation of the PKWT compensation payment is calculated until the time of the work is finished.
- ❖ PKWT compensation for **micro and small businesses** is given by employers to workers based on an **agreement**.
- ❖ The provision of PKWT Compensation **does not apply** to **Foreign workers** who are employed by the Employer in an employment relationship based on PKWT.

## B. OUTSOURCING

### ❖ Employment Relationships & Work Continuity Guarantee

Employment relationships are based on fixed term employment contract and permanent employment contract (**PKWT or PKWTT**).



Protection of workers, wage, welfare, work requirements and disputes are carried out according to regulations and **to be the responsibility of the outsourcing company.**




In the case of work agreement for specified time (PKWT), it must **require the transfer of rights protection** (this is a guarantee of continuity of work) for workers who **change outsourcing companies** and **as long as the object of work remains.**



If the guarantee for continuity of job is not obtained, then **the outsourcing company is responsible for fulfilling the rights** of workers.



### ❖ Outsourcing Company Requirements

 Must be in the form of a **legal entity.**

 Obligated to fulfill **business permits** issued by the **Central Government.**

## I. WORKING TIME

### 1. "Standard" Working Time

- ❖ The "standard" working time are:
  - 7 hours 1 day and 40 hours in a week for 6 working days in 1 week; or
  - 8 hours 1 day and 40 hours 1 week for 5 working days in 1 week

### 2. Less Than "Standard" Working Hours

- ❖ Companies in certain business sectors or jobs that apply **less** than "standard" working time, meet the following **criteria**:
  - a. Completion of work less than 7 hours 1 day and less than 35 hours 1 week;
  - b. Flexible working hours;
  - c. Work can be carried out outside the work site.

## C. WORKING TIME AND REST TIME (WKWI)

### 3. Working hours Over "Standard"

- ❖ Companies in certain business sectors or jobs that apply **more** than the "standard" working time, the implementation is in accordance with the **working time stipulated by the Minister**.
  - Currently the Minister of Manpower has determined WKWI for 5 business sectors or certain jobs. \*
- ❖ In the case that there is a need for working time and rest time other than those already stipulated, the Minister **may determine WKWI for the business sector or certain other jobs**.

Continued...

**\* MINISTER OF MANPOWER REGULATION  
ON WORKING TIMES AND REST TIMES FOR THE BUSINESS SECTOR  
AND SPECIFIC WORK**

1. Minister of Manpower and Transmigration Decree Number KEP.234 /MEN/2003 on Working and Rest Time in the Energy and Mineral Resources Business Sector in Certain Regions
2. Minister of Manpower and Transmigration Regulation Number PER.15/MEN/VII/2005 on Working and Rest Time in the General Mining Business Sector in Certain Operating Areas
3. Minister of Manpower and Transmigration Regulation Number PER.11/MEN/VII/2010 on Working and Rest Time in the Fishery Sector in Certain Operating Areas
4. Minister of Manpower and Transmigration Regulation Number 4 of 2014 on Working Time and Rest Time in Upstream Oil and Gas Business Activities
5. Minister of Manpower Regulation Number 27 of 2015 on Working Time and Rest Time in the Horticultural Agribusiness Sector

## II. Overtime & overtime wage

### 1. Overtime

- ❖ There is an order from the employer and approval from the worker (in writing and/or digital media) → Make a **list** of the implementation of overtime work, containing the names of workers/labor who work overtime and the **length of time for overtime work**.
- ❖ Maximum overtime work is **4 hours in 1 day and 18 hours in 1 week** → this provision does not include overtime work performed during weekly rest periods and/or official holidays.

- ❖ The company obligation:
  - a. Pay **overtime wage**;
  - b. give the opportunity for **rest sufficiently**; and
  - c. provide **food and drink** at least 1,400 Kcal, if overtime work done for 4 hours or more (non-refundable).
- ❖ The provision of maximum overtime working time is **exempted** for companies in certain business sectors or jobs that apply more than “standard” working time.



## 2. Overtime Wage

- Based on a monthly wage.
- **wage (overtime) per hour = 1/173 times of a monthly wage**

### **Ordinary working days:**

- a. The first hour is 1.5 times the hourly wage; and
- b. Every subsequent hour → 2 times the hourly wage.

### **Weekly rest days and / or statutory holidays, for 6 working days and 40 hours a week:**

- a. the first hour to the seventh hour → 2 times the wage per hour;
- b. the eighth hour → 3 times the hour's wage; and
- c. the ninth hour, the tenth hour, and the eleventh hour → 4 times an hour's wage

### **If a legal holiday falls on the shortest working day:**

- a. the first hour to the fifth hour → 2 times an hourly wage;
- b. the sixth hour → 3 times the wage per hour; and
- c. the seventh hour, the eighth hour, and the ninth hour, 4 times an hour's wage

### **Weekly rest days and/or official holidays, for 5 working days and 40 hours a week:**

- a. the first hour to the eighth hour → 2 times an hour's wage;
- b. the ninth hour → 3 times the hour's wage; and
- c. the tenth hour, the eleventh hour, and the twelfth hour → 4 times an hour's wage

❖ overtime wage exemptions:

The provision of wage for working overtime is **exempted** for workers in certain position categories, those who have the responsibility of being thinkers, planners, executors, and/or controllers of the running of the company with the unlimited working hours and get higher wage  
→ **The arrangement for certain class of positions is regulated in Work Agreement, Company Regulations, or Collective Labour Agreement.**

## III. REST TIME

### 1. Rest Time

The rest period includes at least:

- a. breaks between working hours
- b. Weekly rest

### 2. Leave

Must be given  
→ Annual leave

### 3. Long rest

- Not Mandatory;
- Certain company can give long break

## IV. SANCTION

### Type of offense

1. Not implementing the working time provisions;
2. Not providing weekly rest periods;
3. Not giving the opportunity to have a rest adequately and food & drink during working overtime

### Form of administrative sanction

- a. Written warning;
  - b. Restrictions on business activities;
  - c. Temporary suspension of part or all of the means of production; and
  - d. Suspension of business.
- ✓ Done gradually

### Type of offense

1. Not paying overtime wage;
2. Not providing the rest time and leave;
3. The provision of rest periods that are not in accordance with the regulations

### Form of administrative sanction

- a. Imprisonment for a minimum of 1 month and a maximum of 12 months; and / or
- b. A fine of at least Rp. 10 million and a maximum of Rp. 100 million

### Type of offense

There is no agreement on overtime from workers and the maximum overtime work is violated;

### Form of administrative sanction

The criminal sanction is a minimum of Rp. 5 million and a maximum of Rp. 50 million

### I. TERMINATION MECHANISM

#### ❖ PREVENTION

Employers, workers/Laborers, worker unions/laborer unions (SP/SB), and the Government **must strive to prevent termination occurring.**

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#### ❖ NOTIFICATION

- If the termination cannot be avoided, the employers must notify **the purpose & reason for termination** to the workers or trade union in the company (if the worker is a member of an SP/SB)
    - notification letter no later than 14 days prior for termination (for termination during the probationary period, notification letter no later than 7 days before termination).
  - If the worker does not refuse termination, the employer will report the termination of the Ministry of Manpower and /or Provincial and District/City manpower office.
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#### ❖ DISPUTES SETTLEMEN

- If the worker refuses the termination, their must make a rejection letter along with the reasons no later than 7 days after receiving the notification letter.
  - If there is a difference of opinion regarding the termination, the settlement of the termination will be carried out through bipartite negotiations.
  - If there is no agreement on bipartite negotiations, the termination will be resolved through the industrial relations dispute settlement mechanism (Law No. 2/2004).
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## II. THE AMOUNTS OF RIGHTS DUE TO TERMINATION (Article 156 Law 11/2020 jo Article 40 PP 35/2021)

Working Time (Year)	Severance Pay Amount
WT < 1	1 month wage
1 ≤ WT < 2	2 months wage
2 ≤ WT < 3	3 months wage
3 ≤ WT < 4	4 months wage
4 ≤ WT < 5	5 months wage
5 ≤ WT < 6	6 months wage
6 ≤ WT < 7	7 months wage
7 ≤ WT < 8	8 months wage
WT ≥ 8	9 months wage

Working Time (Year)	Period of Service Reward (Money) (UPMK)
3 ≤ WT < 6	2 months wage
6 ≤ WT < 9	3 months wage
9 ≤ WT < 12	4 months wage
12 ≤ WT < 15	5 months wage
15 ≤ WT < 18	6 months wage
18 ≤ WT < 21	7 months wage
21 ≤ WT < 24	8 months wage
WT ≥ 24	10 months wage

### Compensation Pay for Right includes:

1. Annual leave that has not been taken and has not failed;
2. The cost or return fee for worker/labor and their families where the workers are recruited to work; and
3. Other matters stipulated in the Work Agreement, Company Regulations, and Collective Labour Agreement.

### III. TERMINATION REASONS & RIGHTS DUE TO TERMINATION

NO	TERMINATION REASON (Gov. Reg. No. 35/2021)	RIGHTS DUE TO TERMINATION ACCORDING TO PP 35/2021
1	Company is conducting a <b>merger, consolidation and spin off</b> and the <b>employee is not willing</b> to continue the employment relationship	1 UP + 1 UPMK + UPH
	Company is conducting a <b>merger, consolidation and spin off</b> and <b>employers is not willing to</b> accept the employee.	1 UP + 1 UPMK + UPH
	The employers <b>takes over the company</b> (the employer's termination initiative)	1 UP + 1 UPMK + UPH
	The employers <b>takes over</b> the company which results in a change in working conditions and <b>the employee is not willing to continue the work relationship</b>	½ UP + 1 UPMK + UPH
2	The company make efficiency because <b>the company experiences losses</b>	½ UP + 1 UPMK + UPH
	Companies make efficiency to <b>prevent losses</b>	1 UP + 1 UPMK + UPH

NO	TERMINATION REASON (PP 35/2021)	RIGHTS DUE TO TERMINATION ACCORDING TO PP 35/2021
3	The company is closed because the company has <b>suffered a continuous loss for 2 (two) years or</b>	½ UP + 1 UPMK + UPH
	The company closed because the company <b>suffered a loss not continuously for 2 (two) years</b>	½ UP + 1 UPMK + UPH
	The company closed <b>not because</b> the company suffered a loss	1 UP + 1 UPMK + UPH
4	<b>The company closes</b> due to force majeure	½ UP + 1 UPMK + UPH
	There was a force majeure which <b>did not result in the company being closed</b>	¾ UP + 1 UPMK + UPH
5	The company is in a state of postponement of its debt payment obligations because <b>the company is experiencing a loss</b>	½ UP + 1 UPMK + UPH
	The company is in a state of postponement of debt payment obligations <b>not because the company has suffered a loss</b>	1 UP + 1 UPMK + UPH



NO	TERMINATION REASON (PP 35/2021)	RIGHTS DUE TO TERMINATION ACCORDING TO PP 35/2021
6	Bankrupt company	½ UP + 1 UPMK + UPH
7	There is an application for termination submitted by the worker/labor on the grounds that the employer has committed an act as referred to in Article 154A paragraph (1) letter g of the Job Creation Law (or Article 36 letter g Gov. Regulation No. 35/2021)	1 UP + 1 UPMK + UPH
8	There is a decision by an industrial relations dispute settlement institution which states that the employer has not committed an act as referred to in Article 154A paragraph (1) letter g of the Job Creation Law (or Article 36 letter g Gov. Regulation No. 35/2021) regarding applications submitted by workers	UPH + Uang Pisah
9	<b>The workers who resign on their own accord and meet the requirements as referred to in Article 154A paragraph (1) letter i of the Job Creation Law (or Article 36 letter i Government Regulations No. 35/2021)</b>	UPH + Uang Pisah

NO	TERMINATION REASON (PP 35/2021)	RIGHTS DUE TO TERMINATION ACCORDING TO PP 35/2021
10	The worker has been absent for 5 (five) or more working days consecutively without serving written notice accompanied by valid evidence and having been summoned twice by the employer properly and in writing.	UPH + Uang Pisah
11	The worker has violated the employment agreement, company regulations, or collective labor agreement. and has previously provided a warning letter	½ UP + 1 UPMK + UPH
	The worker has violated of an urgent nature that are stipulated in work agreements, company regulations, or collective labor agreements	UPH + Uang Pisah
12	The worker is unable to work for 6 (six) months due to being detained by the authorities because they are suspected of committing a crime that <b>causes company losses</b>	UPH + Uang Pisah
	The worker is unable to perform work for 6 (six) months due to being detained by the authorities because they are suspected of committing a crime that <b>does not cause loss to the company</b>	1 UPMK + UPH

NO	TERMINATION REASON (PP 35/2021)	RIGHTS DUE TO TERMINATION ACCORDING TO PP 35/2021
	The court decides the criminal case before the expiration of the 6 (six) month period and the employee is found guilty (it is proven that the criminal act <b>cause the company loss</b> )	UPH + Uang Pisah
	The court decides the criminal case before the expiration of the 6 (six) month period and the employee is found guilty (it is proven that the criminal act <b>did not cause the company loss</b> )	1 UPMK + UPH
13	<b>The terminations by Employers</b> because the employee is suffering prolonged illness or disability due to an occupational accident and is unable to carry out his job after exceeding the 12 (twelve) month limit.	2 UP + 1 UPMK + UPH
	<b>The worker apply for termination</b> to employers because the worker suffering prolonged illness or disability due to an occupational accident and cannot carry out his job after exceeding the 12 (twelve) month limit.	2 UP + 1 UPMK + UPH

NO	TERMINATION REASON (PP 35/2021)	RIGHTS DUE TO TERMINATION ACCORDING TO PP 35/2021
14	The worker enter retirement age	1 <sup>3</sup> / <sub>4</sub> UP + 1 UPMK + UPH
15	The worker passes away	2 UP + 1 UPMK + UPH

❖ **note:**

- **UP** = severance pay
- **UPMK** = Period of Service Reward
- **UPH** = Replacement Rights
- **The amount of the separation money is regulated in a work agreement, company regulations or collective labor agreement**

## ✓ **The Correlation between the Pension Fund Program and Termination**

- Employers who include Workers in the pension program in accordance with statutory regulations in the field of pension funds, **the contributions paid by the employer can be calculated as part of fulfilling the employer's obligations** for UP and UPMK as well as separation pay.
- If the calculation of benefits from the pension program is less than the severance pay and Reward pay and detachment money, **the employer will pay the difference.**
- The implementation of these provisions is regulated in a Work Agreement, Company Regulation or Collective Labour Agreement.

## ✓ **Termination in Micro and Small Enterprises**

- Employer in **micro and small enterprises** are obliged to pay UP, UPMK, UPH and/or separation money for Workers/Laborers who have experienced termination with the amount **determined based on an agreement** between the employer in the micro and small enterprises and the worker/labor.

## IV. SANCTION

### Type of offense

1. Not providing assistance to the family of the worker because the worker is detained by the authorities;
2. Not paying severance pay, UPMK, UPH, and/or separation pay to workers/laborers in micro and small businesses that have been termination.

### Form of administrative sanction

- a. Written warning;
- b. Restrictions on business activities;
- c. Temporary suspension of part or all of the means of production; and
- d. Suspension of business.

✓ done gradually

### Type of offense

1. Not paying severance pay, UPMK, UPH;
2. Not re-employing workers in the event that the court decides a criminal case before the end of the 6 months period and the worker/laborer is found not guilty.

### Forms of criminal sanction

- a. Imprisonment for a minimum of 1 year and a maximum of 4 years; and/or
- b. A fine of at least Rp. 100 million and a maximum of Rp. 400 million

## CLOSING

The implementing regulations for Law Number 11 of 2020 concerning Job Creation can be downloaded on the State Secretariat's of network and legal information (JDIH) website, namely:

[jdih.setneg.go.id/Produk](http://jdih.setneg.go.id/Produk)



**THANK YOU**