

Implementation of Administrative Sanctions Under Article 17 of Law Number 24 of 2011 on the Social Security Administrator: A Study at the Cirebon Branch of BPJS Ketenagakerjaan

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ABSTRACT

There are still companies or employers that do not comply with Law Number 24 of 2011 on the Social Security Administrator (BPJS), as they have not registered their workers as participants in BPJS Ketenagakerjaan. The role of BPJS Ketenagakerjaan and the implementation of administrative sanctions serve as responses to this non-compliance. This research aims to explain the importance of the role of the Cirebon Branch of BPJS Ketenagakerjaan in providing certainty of social security protection for workers and the implementation of administrative sanctions in accordance with Article 17 of Law No. 24 of 2011 for non-compliant companies. This study employs a juridical-sociological legal research method, examining secondary data from literature and supported by primary data obtained directly from the community through empirical data gathered from interviews with relevant parties. The theories used in this study include the theory of legal certainty, utility, and justice from Gustav Radbruch, as well as the theory of law enforcement from Lawrence M. Friedman. The role of the Cirebon Branch of BPJS Ketenagakerjaan is crucial in providing social protection for workers, not only offering direct benefits to employees but also creating a strong foundation for good industrial relations between employees and employers, as well as managing risks associated with work accidents, death, old age benefits, pensions, and layoffs in accordance with the benefits of the BPJS Ketenagakerjaan program. There are 14 employers/business entities that have been subjected to administrative sanctions, including written warnings I and II, by the Cirebon Branch of BPJS Ketenagakerjaan, as well as sanctions in the form of not receiving certain public services related to business permits, necessary permits for participating in project tenders, permits for employing foreign workers, permits for labor service companies, and building permits, as stated in the letter from the Head of the Investment and One-Stop Integrated Service Office of Kuningan Regency Number 503/306/PPIPPM dated March 20, 2023. The implementation of these administrative sanctions is sometimes not maximally enforced in other regions due to concerns that imposing sanctions may disrupt the investment climate in a district or city. The implications of this research suggest that the government should create policies for the Acceptance of Contribution Assistance (PBI) for workers who are not yet registered as participants in BPJS Ketenagakerjaan. Additionally, to provide legal certainty and a deterrent effect for non-compliant companies or employers, it is advisable to establish a Social Security Court in Indonesia to handle disputes related to social security.

Keywords : Implementation; Sanctions; Companies; BPJS Ketenagakerjaan.

INTRODUCTION

Indonesia's informal economy encompasses approximately 60% of the total workforce, representing over 70 million workers who lack adequate social security protection. These workers, including street vendors, domestic workers, agricultural laborers, and micro-entrepreneurs, face significant vulnerabilities due to irregular income, lack of employment contracts, and limited access to formal social protection schemes. The COVID-19 pandemic highlighted the precarious situation of informal workers, demonstrating the urgent need for comprehensive social security coverage.

The Indonesian government has established legal frameworks for universal social security coverage through the National Social Security System (System Jaminan Sosial Nasional - SJSN), implemented primarily through

BPJS Ketenagakerjaan (Employment Social Security Agency). However, achieving universal coverage remains challenging, particularly for informal workers who often cannot afford contributions or face administrative barriers to enrollment.

City governments play a crucial role in extending social security protection to informal workers through local budget allocations and targeted programs. This article examines the legal foundations and current implementation in Salatiga. How it be challenges facing city level social security initiatives for vulnerable informal workers in Indonesia.

Research methods

Types of Research

This study employs a socio-legal or non-doctrinal approach, also known as *yuridis sosiologis*. This approach examines law not only as written norms but also as its implementation in practice. In other words, the research combines the analysis of statutory regulations with empirical data obtained directly from the field. The nature of this research is descriptive-analytical, aiming to provide an in-depth description of the legal arrangements concerning the implementation of administrative sanctions as stipulated in Article 17 of Law Number 24 of 2011 on the Social Security Administering Body (BPJS), as well as to analyze the effectiveness of its enforcement at the BPJS Ketenagakerjaan Cirebon Branch Office.

Research Subjects

The subjects of this study are parties directly involved in the implementation of social security obligations in the employment sector, particularly in the Cirebon area. The main subjects include the BPJS Ketenagakerjaan Cirebon Branch Office as the locus of the research, along with officials and staff responsible for supervision and legal enforcement. In addition, the study also involves companies or employers who are subject to administrative sanctions for failing to register and pay contributions to the employment social security program.

Data Source

The data sources in this study consist of both primary and secondary data. Primary data were obtained directly from the field through interviews with relevant parties at the BPJS Ketenagakerjaan Cirebon Branch Office, including the Head of the Office, Supervisors, and Inspectors in charge of membership compliance. Secondary data were collected through literature studies, comprising primary legal materials such as statutory regulations, including Law Number 13 of 2003 on Manpower, Law Number 40 of 2004 on the National Social Security System, Law Number 24 of 2011 on BPJS, and several government regulations and ministerial decrees related to the implementation of social security. Secondary legal materials also include books, journals, and previous research, while tertiary legal materials consist of legal dictionaries, encyclopedias, and other supporting documents that clarify primary and secondary sources.

Data Collection Technique

The techniques of data collection applied in this research are twofold. First, library research, which involves reviewing various literatures, documents, and statutory regulations related to the social security system and employers' obligations in BPJS Ketenagakerjaan membership. Second, field research, which was carried out through in-depth interviews with key officials at the BPJS Ketenagakerjaan Cirebon Branch Office and by gathering information on companies that have not fulfilled their obligations in paying social security contributions.

Data Analysis

The collected data were analyzed using a qualitative-descriptive method. The qualitative analysis was conducted by processing and interpreting the data obtained from interviews and legal documents, and then relating them to legal theories and prevailing statutory provisions. Through this approach, the study seeks to objectively describe how Article 17 of Law Number 24 of 2011 is implemented in practice, particularly in relation to the enforcement

of administrative sanctions against companies that fail to comply with the obligation to register and pay BPJS Ketenagakerjaan contributions. The analysis is expected to provide a comprehensive understanding of the effectiveness of legal enforcement and the factors influencing it.

RESULTS AND DISCUSSION

The Importance of Social Security Protection for Workers in Indonesia

The BPJS Ketenagakerjaan (Social Security Administrator for Employment) plays a vital role in ensuring social protection for workers in Indonesia. This program is designed to safeguard employees against various employment-related risks while simultaneously providing a reliable savings mechanism for the future. Its comprehensive approach makes it an essential pillar of the national social security system, fostering both individual welfare and broader economic stability.

One of the primary functions of BPJS Ketenagakerjaan is to provide protection against employment risks. Workers, especially those employed in high-risk sectors such as construction, mining, and manufacturing, are often vulnerable to workplace accidents. Through the Work Accident Insurance (JKK), BPJS covers medical expenses, temporary disability allowances, and death benefits, thereby offering security for workers and their families while enhancing productivity. In addition, the Death Insurance (JKM) scheme ensures that the families of deceased workers receive financial support, which is crucial for households that rely on a single breadwinner. Beyond these protections, the Old Age Savings (JHT) and Pension Insurance (JP) programs enable workers to secure their future by providing accumulated contributions and monthly pension benefits upon retirement or job termination.

Apart from protection, BPJS Ketenagakerjaan also serves as a savings and financial instrument for workers. Contributions made jointly by workers and employers accumulate over time and can be accessed when workers retire or lose their jobs. These funds are carefully managed and invested in safe financial instruments, ensuring both security and growth. The system encourages financial discipline, as regular contributions instill good saving habits while also providing necessary social security coverage.

The program further contributes to social welfare and economic development. By mitigating the risks of poverty due to job loss or workplace accidents, BPJS helps maintain household stability and reduces the vulnerability of workers' families. It also motivates greater labor force participation, as individuals feel more secure entering the workforce knowing that protections are in place. At a macroeconomic level, this system supports national economic stability by preserving purchasing power and promoting sustainable economic growth.

Another important aspect of BPJS Ketenagakerjaan is the Job Loss Insurance (JKP), which provides essential support for workers facing termination of employment. JKP offers financial assistance during periods of unemployment, ensuring that workers and their families can meet basic needs while searching for new opportunities. In addition to financial relief, BPJS often provides training and empowerment programs, equipping workers with the skills and competencies needed to re-enter a competitive labor market. This not only enhances individual independence and resilience but also strengthens the overall quality of the national workforce.

In conclusion, the BPJS Ketenagakerjaan program is fundamental to protecting workers from employment risks while simultaneously promoting financial security and social welfare. Its comprehensive structure covering workplace accidents, death, old age, pensions, and job loss creates a safety net that benefits individuals, families, and the broader economy. By ensuring security and stability, BPJS Ketenagakerjaan contributes significantly to building a safer and more prosperous working environment in Indonesia.

The Role of the Cirebon Branch of BPJS Ketenagakerjaan in Implementing Social Security Protection for Workers

In a country that upholds the rule of law as a foundation for providing security and comfort to its citizens, the presence of effective and accurate legal institutions is essential. Legal certainty is reflected in the extent to which

justice is delivered to society, regardless of social class, and without bias in the administration of justice. Establishing a state based on law and ensuring the protection of its citizens requires legal certainty as a fundamental pillar for the effective implementation of legal provisions. As a key principle, legal certainty plays a crucial role in maintaining legal stability within governance.

BPJS Ketenagakerjaan, as a public legal entity, is vested with authority under Law Number 24 of 2011 on the Social Security Administrator and its implementing regulations to ensure social security protection for all workers. The Cirebon Branch of BPJS Ketenagakerjaan, which is responsible for Cirebon City, Cirebon Regency, and Kuningan Regency, carries the mandate of ensuring justice by requiring employers to register their employees, thereby guaranteeing workers' rights to social protection. This protection strengthens employees' sense of security in carrying out their professional responsibilities.

The role of the Cirebon Branch of BPJS Ketenagakerjaan is vital in delivering social protection to workers. Its benefits extend beyond the employees themselves, as it also fosters a strong foundation for harmonious industrial relations between employers and workers. To achieve this, BPJS Ketenagakerjaan must actively conduct socialization, education, and dissemination of information regarding social protection programs to both employers and workers. Regular coordination and collaboration with local governments, law enforcement authorities, and BPJS Kesehatan are also required, alongside systematic monitoring and evaluation. Through these efforts, BPJS Ketenagakerjaan enables employers to manage financial risks associated with work accidents, death, retirement, pensions, and job loss. By transferring these risks to BPJS Ketenagakerjaan, companies can mitigate potential financial burdens and manage employee-related costs more efficiently. In the long term, such efforts also help build a company's reputation, as organizations that uphold workers' rights and provide social protection are increasingly valued by society and become more attractive to potential employees. This contributes to trust-building, which is essential for strengthening a company's positive public image.

Every employee who works for more than three months, whether under a fixed-term or permanent contract, is entitled to participate in social security programs administered by BPJS Ketenagakerjaan. As a public legal entity directly accountable to the President, BPJS Ketenagakerjaan provides protection for workers in both formal and informal sectors. The Cirebon Branch has consistently undertaken socialization and educational initiatives to raise awareness of the importance of these programs among workers, employers, and local governments. The benefits of the Social Security Program extend beyond individual participants and employers, contributing to national development and economic growth through the promotion of good governance.

The effective implementation of BPJS Ketenagakerjaan programs requires direct support from the government. In this regard, Presidential Instruction Number 2 of 2021 on the Optimization of the Employment Social Security Program (Jamsostek) mandates the involvement of central and local government officials—including 19 ministers, the Attorney General, three agency heads, members of the National Social Security Council (DJSN), 34 governors, 416 regents, and 98 mayors—in optimizing the program to ensure comprehensive protection for Indonesian workers and their families.

As part of its mandate, the Cirebon Branch of BPJS Ketenagakerjaan implements five programs, each designed to provide employment-related guarantees with specific roles and functions: (1) Work Accident Insurance (JKK): Provides coverage for workers who suffer accidents during the course of employment, including medical treatment, temporary disability benefits, and compensation for work-related fatalities. (2) Death Insurance (JKM): Offers financial assistance to the beneficiaries of deceased participants, whether the death results from work-related incidents or other causes, thereby alleviating the financial burden on surviving families. (3) Old Age Savings (JHT): Functions as a long-term savings scheme by accumulating contributions, which participants may claim upon reaching retirement age, termination of employment, or death. (4) Pension Insurance (JP): Ensures a sustainable standard of living for participants and their beneficiaries through monthly pension benefits after retirement or in cases of permanent disability. (5) Job Loss Insurance (JKP): Provides financial protection to workers affected by termination of employment, including cash assistance, access to job market information, and retraining programs to support re-employment.

Together, these five programs form a comprehensive social security framework designed to safeguard workers' welfare, improve their quality of life, and provide security for their families. By doing so, BPJS Ketenagakerjaan

not only protects individual workers but also strengthens national development through a more resilient and equitable labor system.

Implementation of Administrative Sanctions Under Article 17 Of Law Number 24 of 2011 on the Social Security Administrator (BPJS) in the Working Area of the Cirebon Branch of BPJS Ketenagakerjaan

BPJS Ketenagakerjaan, as a public legal entity in the field of social security, operates under the authority of the President. Despite its significant benefits, the implementation of BPJS Ketenagakerjaan is not without challenges. One of the main challenges is ensuring that companies comply with the obligation to register their workers and pay social security contributions in a timely and complete manner. This can affect the financing of the program and reduce the availability of protection for workers. Another challenge is the lack of understanding and awareness regarding the rights and obligations related to BPJS Ketenagakerjaan. More effective and intensive educational efforts are needed to ensure that both employees and employers fully understand the importance of the BPJS Ketenagakerjaan program and the benefits it provides.

As stated by Rodiyah and Indah Sri Utari, one of the key factors and actors in realizing good governance and clean government is the bureaucracy itself. In its important role in managing policies and public services, the bureaucracy significantly determines the efficiency and quality of services to the community, as well as the effectiveness of government and development implementation. Laws established by the legislature and announced by the government, along with various public policies articulated in various forms of legislation developed in the context of state administration and development, can be effectively managed by the government if there is a healthy and strong bureaucracy one that is professional, neutral, open, democratic, independent, and possesses integrity and competence in carrying out its duties and responsibilities as public servants and state servants, fulfilling the nation's mission to realize its ideals and goals.

The history of independent Indonesia shows that a non-neutral bureaucracy has contributed to political chaos; such a bureaucracy often grows alongside certain political powers and interests, becoming trapped in corruption, collusion, and nepotism (KKN), ultimately leading our country to economic collapse. This has occurred under every government regime, with similar consequences and impacts in the form of weaknesses in legal institution development and the destruction of economic, political, and social life (Rodiyah and Indah Sri Utari 2018: 2).

The author believes that the view on the implementation of administrative sanctions significantly influences the role of bureaucracy in enforcing sanctions, meaning: (1) A professional and neutral bureaucracy is responsible for enforcing applicable laws and regulations, including the application of administrative sanctions. If the bureaucracy functions well, administrative sanctions can be applied consistently and fairly, creating a deterrent effect for violators and encouraging compliance with regulations. In this case, administrative sanctions become an important instrument to ensure that public policies and regulations are implemented effectively. (2) Furthermore, the implementation of administrative sanctions can address corruption and KKN: In the context of Indonesia's history, where non-neutral bureaucracies often become entangled in corruption, collusion, and nepotism, the implementation of administrative sanctions is crucial in addressing these issues. With strict sanctions against violations, it is hoped that more ethical behaviour will be encouraged among bureaucratic officials. This will help build public trust in the government and enhance accountability. (3) Improving the Quality of Public Services: Administrative sanctions also serve to enhance the quality of public services. When the bureaucracy faces consequences for non-compliant actions, they will be more motivated to provide better and more responsive services to the public. Thus, the implementation of administrative sanctions is not only about punishing violators but also about creating an environment that supports the improvement of public service quality. (4) Strengthening Legal Institutions: As mentioned earlier, weaknesses in legal institution development can lead to economic and social collapse. Effective implementation of administrative sanctions contributes to strengthening legal institutions by creating legal certainty and enforcing applicable regulations. This is essential for creating a healthy investment climate and supporting sustainable economic development. (5) Synergy between Regulation and Bureaucratic Culture: To achieve the goals of implementing administrative sanctions, there needs to be synergy between existing regulations and a bureaucratic culture that supports them. If the bureaucracy has an open, accountable, and responsive culture, the application of administrative sanctions will be easier and more effective. Therefore, bureaucratic reform emphasizing integrity and professionalism is crucial to support the implementation of administrative sanctions.

The Cirebon Branch of BPJS Ketenagakerjaan and the Investment and One-Stop Integrated Service Office of Kuningan Regency have imposed administrative sanctions in 2023 on 14 companies that did not register their workers in the social security program. The procedure is as follows: (1) Companies that do not register themselves and their workers as participants in BPJS according to the social security program are subject to a first written warning for a maximum period of 10 days by BPJS. If the company does not comply by the end of the 10-day period, BPJS will issue a second written warning for another 10 days. Before issuing the first written warning, the Cirebon Branch of BPJS Ketenagakerjaan will conduct monitoring and inspections of non-compliant companies, followed by issuing a Findings Report (THP) by the Inspection and Monitoring Officer.

(2) A fine is imposed if, after the second written warning period ends, the company still does not comply. The fine is set at 0.1% of the contributions that should have been paid, calculated from the end of the second written warning. The fine is paid to BPJS along with the next month's contribution payment. (3) Companies are subject to the sanction of not receiving certain public services if the fines are not paid in full as determined. (4) The sanction of not receiving certain public services is lifted if, the fine has been paid in full to BPJS, and the company has registered itself and its workers as participants in BPJS according to the social security program or the company has provided complete and accurate data about itself and its workers to BPJS.

(5) Proof of full payment of fines, registration of participation, and evidence of providing complete and accurate participation data will be used as the basis for lifting the sanction of not receiving certain public services. Thus, the sanction of not receiving certain public services is imposed if the first written warning, second written warning, and fines are not complied with.

The sanction is lifted if the fine has been paid in full to BPJS and the company has registered itself and its workers as participants in BPJS or has provided complete and accurate data to BPJS. Consequently, companies should understand the final consequences of their negligence in not registering and paying BPJS Ketenagakerjaan contributions for their workers. It is also agreed that positions related to employee controlling (human resources) in companies should be filled based on adequate capacity and capability to manage all responsibilities as parties involved in the development of human resources in the company.

In addition to the sanction of not receiving certain public services from the local government of Kuningan Regency through the Investment and One-Stop Integrated Service Office, the Cirebon Branch of BPJS Ketenagakerjaan also consistently coordinates with law enforcement in the form of Cooperation Agreements (PKS) related to non-compliance by companies or employers that do not register their workers in the BPJS Ketenagakerjaan program, companies that only register some of their workers in the social security program, companies that do not adjust actual wages to BPJS Ketenagakerjaan, companies that do not register the BPJS Ketenagakerjaan program according to their actual business scale, and companies or employers that do not pay their workers' contributions to BPJS Ketenagakerjaan. Law enforcement agencies or relevant authorities that have collaborated with the Cirebon Branch of BPJS Ketenagakerjaan include the Kuningan District Attorney's Office, the City of Cirebon District Attorney's Office, the Cirebon Regency District Attorney's Office, the Kuningan Police, the Cirebon Police, and the Cirebon City Police, as well as the UPTD of Labor Supervision. Overall, the implementation of administrative sanctions can be considered an integral part of efforts to strengthen the bureaucracy and create a clean and accountable government. With clear and firm sanctions, it is hoped that the bureaucracy can perform its functions better, reduce practices of corruption, collusion, and nepotism (KKN), and enhance the quality of public services provided to the community. The Cirebon Branch of BPJS Ketenagakerjaan, together with the local government in its working area, has committed to enforcing the law in accordance with its authority and applicable regulations. This collaboration is expected to be implemented not only in the Cirebon Branch of BPJS Ketenagakerjaan but also in other regions, from the Central Office, Regional Offices, to the Branch Offices of BPJS Ketenagakerjaan.

CONCLUSION

BPJS Ketenagakerjaan plays a vital role in implementing social security protection for workers, as mandated by Law Number 24 of 2011 on the Social Security Administrator, benefiting not only workers but also employers and the state. First, the role of BPJS Ketenagakerjaan for workers is to provide protection, services, and welfare for workers who are participants in BPJS Ketenagakerjaan and their families. Second, the role of BPJS

Ketenagakerjaan for employers or businesses is to enhance worker productivity, as workers feel safer, more comfortable, and protected in the workplace. Additionally, the protection from BPJS Ketenagakerjaan shifts work-related risks from employers to BPJS Ketenagakerjaan. Third, the role of BPJS Ketenagakerjaan for the state is to encourage sustainable investment and employment, contributing to national development and economic growth with good governance.

The implementation of administrative sanctions for employers or businesses that do not register their workers in the Social Security Program has been carried out by the local government in the working area of the Cirebon Branch of BPJS Ketenagakerjaan through the Investment and One-Stop Integrated Service Office of Kuningan Regency, imposing administrative sanctions in the form of not receiving certain public services, including business permits, permits required for participating in project tenders, permits for employing foreign workers, permits for labour service companies, and building permits. However, the implementation of these administrative sanctions is sometimes not maximized in other regions due to concerns that imposing sanctions may disrupt the investment climate in a district or city.

The benefits provided by BPJS Ketenagakerjaan to participants are substantial, yet the coverage of participants in BPJS Ketenagakerjaan remains low. Therefore, the role of the state, in accordance with the mandate of Article 34 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, is crucial, particularly in policies that can be taken through: Acceptance of Contribution Assistance (PBI) from the government for workers who are not yet registered as participants in BPJS Ketenagakerjaan, the mandatory Online Single Submission (OSS) managed by the Investment Ministry or BKPM requiring all businesses to attach proof of BPJS Ketenagakerjaan registration during the business licensing process, and similar measures can be applied in the Mandatory Employment Reporting (WLKP) managed by the Ministry of Manpower. Additionally, the integration of all BPJS Ketenagakerjaan participants using the Population Identification Number on the National Identity Card (KTP) would enhance the quality of participant data and integrate it with taxation, allowing for the identification of workers not yet registered in the Social Security Program, which would be improved if citizens with employment status were required to register directly with BPJS Ketenagakerjaan.

The implementation of sanctions, whether administrative, civil, or criminal, in the Social Security System has been progressing well, but challenges remain, as BPJS Ketenagakerjaan does not operate independently in sanctioning, as its role is limited to recommending or requesting sanctions directed at relevant stakeholders. According to Article 14 Paragraph (1) of Government Regulation Number 86 of 2013, it is stated that "In carrying out supervision and inspection of compliance in the implementation of social security programs, BPJS appoints inspection officers" who have the duties and functions to conduct monitoring and inspection activities to ensure compliance by employers regarding registration obligations, submission of worker data, wage or income data, and their changes according to applicable regulations. Therefore, it is advisable to establish a Social Security Court in Indonesia to handle judicial duties, particularly disputes related to social security.

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