

ELUCIDATION
OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 24 OF 2011
ON
SOCIAL SECURITY AGENCY

I. GENERAL

In the preamble of the 1945 Constitution of the Republic of Indonesia, it is mandated that the purpose of the state is to improve people's welfare. In the Fourth Amendment to the 1945 Constitution of the Republic of Indonesia, such purpose is further emphasized by developing social security system for the welfare of all people.

National social security system is a state program which aims to ensure the protection and social welfare for all people as mandated in Article 28H section (1), section (2) and section (3) and Article 34 section (1) and section (2) of the 1945 Constitution of the Republic of Indonesia. In addition, in Resolution of the People's Consultative Assembly Number X/MPR/2001, the President is assigned to establish a national social security system in order to provide a more comprehensive and integrated social protection for the people.

Upon the enactment of Law Number 40 of 2004 on National Social Security System, Indonesia as a nation has had the Social Security system for all Indonesian people. To reach the goal of the national social security system, it is necessary to form administrative agency which is a legal entity based on the principles of mutual cooperation, non-profit, transparency, prudence, accountability, portability, mandatory participation, trust fund, and the investment yields of the Social Security Funds is used entirely for program development and in the best interests of Members.

Establishment of the Law on Social Security Agency is an implementation of Law Number 40 of 2004 on National Social Security System after the Constitutional Court Decision on case Number 007/PUU-III/2005, in order to provide legal certainty for the establishment of BPJS to administer the Social Security program throughout Indonesia. This Law is the implementation of Article 5 section (1) and Article 52 of Law Number 40 of 2004 on National Social Security System which mandates the establishment of Social Security Agency and institutional transformation of PT Askes (Persero), PT Jamsostek (Persero), PT TASPEN (Persero), and PT ASABRI (Persero) into Social Security Agency. The transformation is followed by the transfer of members, programs, assets and liabilities, personnel, as well as rights and obligations.

Under this Law, 2 (two) BPJS are established, namely BPJS Kesehatan and BPJS Ketenagakerjaan. BPJS Kesehatan administers a health security program and BPJS Ketenagakerjaan administers employment injury security, old-age security, pension security and death security programs. With the establishment of those two BPJS, the coverage of membership of social security program will be expanded gradually.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Point a

The term “principle of humanity” means a principle related to honor toward human dignity.

Point b

The term “principle of benefits” means an operational principle that defines efficient and effective management.

Point c

The term “principle of social justice for all Indonesian people” means an ideal principle.

Article 3

The term “basic needs of life” means a person’s essential needs to achieve an adequate standard of living, for the creation of social welfare for all Indonesian people.

Article 4

Point a

The term “principle of mutual cooperation” means the principle of solidarity among Members in bearing the cost of Social Security, realized in the obligations of every member to pay Contribution pursuant to their level of Salary, Wage, or income.

Point b

The term “principle of non-profit” means a principle of business management that emphasizes the use of investment yields for the maximum Benefit of all Members.

Point c

The term “principle of transparency” means the principle of easing access to complete, accurate, and clear information to every Member.

Point d

The term “principle of prudence” means the principle of careful, prudent, secure, and orderly financial management of the funds.

Point e

The term “principle of accountability” means the principle of accurate and accountable program administration and financial management.

Point f

The term “principle of portability” means the principle which provides sustainable security despite changes in Member’s occupation or domicile within the territory of the Unitary States of the Republic of Indonesia.

Point g

The term “principle of mandatory participation” means the principle that obliges all residents to be Members of Social Security that is administered in stages.

Point h

The term “principle of trust fund” means that Contributions and its investment yields are a deposited fund from Members to be used in the best interests of the Social Security Members.

Point i

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Sufficiently clear.

Article 7

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Point a

The term “collect” means to ask for payment in the event of arrears, non-performing, or shortage of Contribution payment.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

The Government sets the standard tariff after getting input from BPJS and associations of health facilities at both national and regional levels.

Amount of tariff in one region may differ from other regions pursuant to the local cost level, in order to obtain payment of health facilities effectively and efficiently.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

The term “other obligations” includes the obligation to register themselves and their Workers as Members, to report membership data including changes in Salary or Wage, the number of Workers and their family members, the Workers addresses, as well as status of Workers.

The term “legislation” means the Law on National Social Security System and its implementing regulations.

Point h

Cooperation with other parties related to the Contribution raise and collection from Members and Employers and Contribution Aid recipients is conducted along with government institutions and local governments, state-owned enterprises, and regional-owned enterprises.

Article 12

Point a

The term “operational fund” means part of accumulation of Social Security Contributions and investment yields that can be used by BPJS to finance operational activities in administering the Social Security program.

Point b

Sufficiently clear.

Article 13

Point a

The term “single identity number” means the specific number given by BPJS to every Member to ensure the good administration of the rights and obligations of every Member. Single identity number applies to all Social Security programs.

Point b

Sufficiently clear.

Point c

Information concerning the performance and financial condition of BPJS includes information concerning amount of assets and liabilities, revenues, and expenditures of each Social Security Fund, and/or amount of assets and liabilities, revenues, and expenditures of BPJS.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Point k

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Section (1)

The term “Social Security program” in which they participate” means 5 (five) Social Security programs in Law Number 40 of 2004 on National Social Security System.

Section (2)

The term “data” means personal data of Employers and their Workers with their family members, including data changes.

Section (3)

The phases as regulated in Presidential Regulation are based on, among others, the number of Workers, type of business, and/or business scale.

The phases as regulated in Presidential Regulation may not reduce benefits due to Members’ right and Employer’s obligations to participate in Social Security program.

Article 16

Sufficiently clear.

Article 17

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The term “certain public services” means, among others, processing of business licenses, building permits, proof of ownership of land and buildings.

Section (3)

Sufficiently clear.

Section (4)

The term “Government or local government” means public service unit undertaken by Government or local government.

Section (5)

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Section (1)

Sufficiently clear.

Section (2)

Candidates for members of the Board of Supervisors from element of Workers are proposed by Workers organization at the national level.

Candidates for members of the Board of Supervisors from element of Employers are proposed by entrepreneurs' organization at the national level.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

The term "proposed to be re-designated" means to be re-nominated through selection process.

Article 22

Sufficiently clear.

Article 23

Section (1)

Members from element of professional are people who have expertise and/or special knowledge in the field of Social Security.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term "proposed to be re-designated" means to be re-nominated through selection process.

Article 24

Section (1)

Sufficiently clear.

Section (2)

Point a

The term "planning" includes the preparation of Annual Work Plan and Budget of BPJS.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Section (3)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The term "income" means salary or wage and other additional benefits.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 25

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Qualification criteria for candidates for members of the Board of Supervisors or candidates for members of the Board of Directors are measured from the level of formal education.

Competency criteria for candidates for members of the Board of Supervisors or candidates for members of the Board of Directors are measured based on experience, expertise, and knowledge pursuant to their assignments.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Section (2)

The term “may not hold concurrent positions” means that after being designated as the Board of Supervisors or the Board of Directors, the selected candidates relinquish their positions in government office, including state institutions or other legal entities.

Article 26

Sufficiently clear.

Article 27

Competency criteria for candidates for members of the Board of Directors are measured by their experience, expertise, and knowledge pursuant to their assignments, among others, in the field of economics, finance, banking, actuarial practices, insurance, pension funds, information technology, risk management, health management, employment injury and occupational diseases, and/or law that can be proved by a certificate of competency.

Article 28

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Section (1)

Sufficiently clear.

Section (2)

To perform duties of members of the Board of Supervisors who are suspended, the interim officials proposed by DJSN are selected from among other members of the Board of Supervisors.

To perform duties of members of the Board of Directors who are suspended, the interim officials proposed by DJSN are selected from among members of other Board of Directors.

Section (3)

The term “declared healthy” means a case when declared healthy by a doctor who works at Government-owned hospital.

The term “their status as suspects revoked” means if the investigation is stopped by the investigator.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 34

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

Sufficiently clear.

Article 38

Sufficiently clear.

Article 39

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Point a

DJSN carries out monitoring and evaluate the administration of Social Security program.

Point b

The term “independent supervisory agencies” means the Financial Services Authority. In certain conditions the Audit Board may conduct examination pursuant to their authority.

Article 40

Sufficiently clear.

Article 41

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Assets of social security program may be in the form of money, securities, as well as land and buildings.

Point d

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 44

Sufficiently clear.

Article 45

Sufficiently clear.

Article 46

Sufficiently clear.

Article 47

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

The term “legislation” means the Law on Arbitration and Alternative Dispute Resolution.

Article 50

Sufficiently clear.

Article 51

Section (1)

Sufficiently clear.

Section (2)

Cooperation with other domestic or international organizations or institutions is carried out to improve the quality of BPJS or the quality of services to Members.

Section (3)

BPJS membership in international organizations or institutions remains to comply with the legislation in Indonesia.

Section (4)

Sufficiently clear.

Article 52

Point a

The term “family ties” means family ties due to consanguinity or marriage.

Point b

Sufficiently clear.

Point c

The term “behave improperly” means to conduct acts which disgrace the Board of Supervisors and the Board of Directors.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Point k

Sufficiently clear.

Point l

Sufficiently clear.

Point m

Sufficiently clear.

Article 53

Sufficiently clear.

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.

Article 56

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Certain conditions that burden the economy may be in the form of high inflation rate, a post disaster conditions which caused the use of most of the state economic resources, and so forth.

Special actions to maintain financial health and sustainability of the administration of Social Security but not limited to, adjustment in Benefits, Contributions, and/or retirement age, as a last effort.

Article 57

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Social Insurance Program of the Republic of Indonesian Armed Forces consists of insurance compensation, lump sum insurance compensation, death risk compensation, funeral cost compensation, particular death risk compensation, on-duty disability compensation, off-duty disability compensation, wife/husband funeral cost compensation, and children funeral cost compensation.

Point f

Provident fund program consists of endowment insurance and life insurance.

Article 58

Point a

Preparation for BPJS Kesehatan operation includes:

- a. developing systems and operational procedures required for the operation of BPJS Kesehatan;
- b. disseminating to all stakeholders of health security;
- c. determining the health security program in accordance with provisions of the Law on National Social Security System for Members of PT Askes (Persero);
- d. coordinating with the Ministry of Health for the transfer of the administration of public health security program to

BPJS Kesehatan;

- e. coordinating with the Ministry of Defense, the Indonesian National Armed Force (TNI) and Indonesian National Police (Polri) for the transfer of the administration of health service program for TNI/Polri and civil servants (PNS) in the Ministry of Defense, the Indonesian National Armed Force and Indonesian National Police as well as their family members to BPJS Kesehatan; and
- f. coordinating with PT Jamsostek (Persero) for the transfer of the administration of its healthcare security program to BPJS Kesehatan.

Point b

Preparatory activities for the transfer of assets and liabilities, personnel, as well as rights and obligations of PT Askes (Persero) to BPJS Kesehatan includes:

- a. appointing a public accountant office to conduct audit on the closing balance report of PT Askes (Persero), balance report of BPJS Kesehatan, and the opening balance report of the health security fund; and
- b. preparing the closing balance report of PT Askes (Persero), the opening balance report of BPJS Kesehatan, and the opening balance report of the health security fund.

Article 59

Sufficiently clear.

Article 60

Sufficiently clear.

Article 61

Point a

Sufficiently clear.

Point b

Preparation for BPJS Ketenagakerjaan operation for employment injury security, old-age security, pension security and death security programs includes:

- a. developing systems and operational procedures required for the operation of BPJS Ketenagakerjaan; and
- b. disseminating to all stakeholders of employment injury security, old-age security, pension security and death security program.

Point c

Sufficiently clear.

Point d

Preparatory activities for the transfer of assets and liabilities, personnel, as well as rights and obligations of PT Jamsostek (Persero) to BPJS Ketenagakerjaan include:

- a. appointing a public accountant office to conduct audit on the closing balance report of PT Jamsostek (Persero), and the opening balance report of BPJS Ketenagakerjaan; and
- b. preparing the closing balance report of PT Jamsostek (Persero), and the opening balance report of BPJS Ketenagakerjaan.

Article 62

Sufficiently clear.

Article 63

Sufficiently clear.

Article 64

Sufficiently clear.

Article 65

Section (1)

PT ASABRI (Persero) completes the transformation roadmap preparation not later than 2014 which among others, includes the transfer of Social Insurance program of the Republic of Indonesia Armed Forces and pension fund program to BPJS Ketenagakerjaan.

Section (2)

PT TASPEN (Persero) completes the preparation of transformation roadmap arrangement not later than 2014 which, among others, includes the transfer of provident fund and pension fund

programs to BPJS Ketenagakerjaan.

Article 66

Social Insurance Program for the Republic of Indonesia Armed Forces and pension fund program transferred from PT ASABRI (Persero) and provident fund and pension fund programs transferred from PT TASPEN (Persero) are parts of the programs in accordance with the Law on National Social Security System.

PT ASABRI (Persero) and PT TASPEN (Persero) complete their transformation roadmap arrangement not later than 2014, which among others, includes the transfer of Social Insurance Program of the Republic of Indonesian Armed Forces and pension fund program from PT ASABRI (Persero) and the transfer of provident fund and pension fund programs to BPJS Ketenagakerjaan.

Article 67

Sufficiently clear.

Article 68

Sufficiently clear.

Article 69

Sufficiently clear.

Article 70

Sufficiently clear.

Article 71

Sufficiently clear.