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Government Regulation No. 49 of 2023 – Second Amendment to Occupational Accident and Death Security Programs

In October 2023, the Indonesian Government issued the second amendment to Government Regulation No. 44 of 2015 on the Occupational Accident Security (*Jaminan Kecelakaan Kerja* – “**JKK**”) and Death Security programs (*Jaminan Kematian* – “**JKM**”) (“**GR 44/2015**”), under Government Regulation No. 49 of 2023 (“**GR 49/2023**”).

GR 49/2023 is designed to enhance the protection of employees against socio-economic risks and aims to support the organization of the job loss security program while improving the use of occupational accident and death security premiums.

GR 49/2023 introduces the following key changes:

1. Eligible Participants

Employees who are eligible to participate in the JKK and JKM programs are divided into the following three categories:

- (i) Salary Earner Participants who work for state administrators;
- (ii) Salary Earner Participants who work for employers other than state administrators; and
- (iii) Non-Salary Earner Participants.

Salary Earner Participants are employees that receive a monthly salary, including government and private sector employees, while Non-Salary Earner Participants include individuals, entrepreneurs, companies, and other entities that hire employees.

Salary Earner Participants who work for state administrators who are prospective civil servants, civil servants, government employees with an employment agreement, soldiers in the Indonesian National Armed Forces, members of the Indonesian National Police Force,

state officials, cadets in the Indonesian National Armed Forces, and cadets in the Indonesian National Police Force should adhere to their specific regulatory frameworks.

Meanwhile, Salary Earner Participants who also work for state administrators other than those mentioned above, such as those in leadership roles or non-structural agencies, will continue to be a participant in the manpower social security program organized and managed by the Manpower Social Security Agency (“**BPJS Ketenagakerjaan**”).

2. Changes to the JKK and JKM premiums

Under Law No. 6 of 2023 on the Enactment of Governmental Regulation in lieu of Law No. 2 of 2022 on Job Creation as a Law, the Indonesian Government has introduced a Job Loss Security program (*Jaminan Kehilangan Pekerjaan* – “**JKP**”), a new social security program under the BPJS Ketenagakerjaan. The JKP program is further regulated under Governmental Regulation No. 37 of 2021 on the Implementation of the Job Loss Security Program.

Job Loss Security benefits consist of (a) a monthly cash benefit for six months, (b) access to job market information and career counselling, and (c) online or offline job training which will be provided to employees whose employment is terminated.

The premium for the Job Loss Security program is 0.46% of the employee’s monthly salary. The 0.46% is calculated as follows:

- (i) 0.22% of the employee’s monthly salary is paid by the Central Government; and
- (ii) 0.24% of the employee’s monthly salary is paid by way of the allocation of the Occupational Accident Security and Death Security premiums. The allocated premium from the Occupational Accident Security program is 0.14% of the employee’s monthly salary and the allocated premium from the Death Security program is 0.10% of the employee’s monthly salary. The contribution must be paid by the employer.

Following the above, under GR 49/2023, if the employees are registered in the JKP program, the JKK premium should be reduced by 0.14%, which will be allocated to the JKP program. Please see below a table comparing the JKK premium which the employer should pay for each risk level group.

Risk Level	The Premium to be paid by the Employer	
	Employees are <u>not</u> registered in the JKP program	Employees are registered in the JKP program
Very low risk	0.24% of monthly salary	0.10% of the monthly salary
Low-risk	0.54% of monthly salary	0.40% of the monthly salary
Medium-risk	0.89% of monthly salary	0.75% of the monthly salary
High-risk	1.27% of monthly salary	1.13% of the monthly salary
Very high risk	1.74% of monthly salary	1.60% of the monthly salary

As for the JKM program, if employees are not registered in the JKP program, the JKM premium should be paid by the employer is 0.30% of the employees' monthly salary. Under GR 49/2023, the JKM premium should be reduced by 0.10%, which will be allocated to the JKP program. Given this, the JKM premium to be paid by employers whose employees are registered in the JKP program is 0.20% of the employees' monthly salary, not 0.30%.

Given the above, employers will not have to pay any additional premium for the JKP, since the employer covers the premium for the JKP program by taking a certain percentage of the premium initially paid for the JKK and JKM programs.

The JKK and JKM premiums will not be adjusted or reduced for employees who are not registered as participants in the JKP program, or for employees who had not yet had their premiums paid by their employers, other than state administrators, when GR 49/2023 was issued and whose premiums have not been paid in full to BPJS Manpower.

3. Accidents and Illness that are Allegedly Related to the Occupation

Under GR 49/2023, healthcare services for allegedly occupation-related accidents or illnesses will initially be covered by BPJS Ketenagakerjaan, pending a specific determination of whether the accident or illness is in fact, occupation-related which determination should be made within 30 days of the drafting and submission of the Phase I report to BPJS Ketenagakerjaan by the relevant non-state employer.

If the above accidents or illness is ultimately determined to have an occupation-related cause, then any healthcare services charged to manpower social security program participants will be fully covered by BPJS Ketenagakerjaan as part of the JKK program benefits.

However, if an accident is found to be non-occupation-related, then the fees for the relevant healthcare services will have to be paid by the following parties:

- (i) the relevant employee;
- (ii) the Social Security Agency for Health (*Badan Penyelenggara Jaminan Sosial Kesehatan* – “**BPJS Kesehatan**”); or
- (iii) other insurance providers.

If an allegedly occupation-related illness is found to be non-occupation-related, then the fees for the relevant healthcare services will be paid by BPJS Kesehatan.

In addition, the application for benefits related to an alleged occupational accident or illness suffered by a salary earner participant can be by the employee, a member of his/her family, the trade union he/she belongs to, or the health facility that provides health services to the employer. The application can also be submitted to BPJS Ketenagakerjaan, BPJS Kesehatan, the provincial Manpower office, the local Manpower Supervisory unit, or the central or regional government work unit responsible for staffing.

For Non-salary Earner Participants, the application can be submitted by the trade union to which the non-salary earner participant belongs, one of certain forums or groups, or the health facility that provides health services to BPJS Ketenagakerjaan, BPJS Kesehatan, the provincial Manpower office, or the local Manpower Supervisory unit.

However, the above does not release the employer (for Salary Earner Participants) or relevant participant or member of his /her family (for non-salary earner participants) from the obligation to report any occupation-related accident or illness.

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