

ELUCIDATION OF
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ON
NATIONAL SOCIAL SECURITY SYSTEM

I. GENERAL

The social economy development as one of national development policy implementations has produced many progress, among others, the improvement of people welfare. Such welfare must be enjoyed continuously, fairly, and evenly to all people.

The Indonesian development dynamics has caused both challenges and demands of treatment for various unsolved questions. One of them is the administration of social security for all people, as mandated in Article 28 section (3) on rights to social security and Article 34 section (2) of the 1945 Constitution of the Republic of Indonesia. The social security is also guaranteed in the Declaration of the United Nations on Human Rights in 1948 as confirmed in ILO Convention Number 102 of 1952 recommending all nations to provide minimum protection to each employee. In line with such provisions, the People's Consultative Assembly of the Republic of Indonesia in Resolution Number X/MPR/2001 mandates the President to establish a national social security system in order to provide a more comprehensive and integrated social protection for the people.

The National Social Security System essentially is a State program with purpose to guarantee the protection and social welfare for all of Indonesian people. Through this program, any residents of Indonesia are expected to be able to fulfill their decent daily lives in the event of loss or short of revenue, because of illness, struck by accident, lost their job, in their old age, or pension.

During the last decades, Indonesia has conducted several social security programs. The Law specially regulating the social security for private employees is Law Number 3 of 1992 on Workers Social Security that consists of healthcare security, employment injury security, , old-age security, and death security programs.

For Civil Servants, it is developed programs called Dana Tabungan dan Asuransi Pegawai (TASPEN) established by Government Regulation Number 26 of 1981 and Asuransi Kesehatan (ASKES) administered under Government Regulation Number 69 of 1991 compulsory to PNS/Pension Recipients/Independence Pioneers/Veterans and their family members.

For the Indonesian National Armed Forces (TNI), Indonesian National Police (POLRI) and Civil Servants in Department of Defense/TNI/POLRI along with their families have been performed a program called Asuransi Sosial Angkatan Bersenjata Republik Indonesia (ASABRI) in accordance with Government Regulation Number 67 of 1991 constituting an amendment to Government Regulation Number 44 of 1971.

The various programs mentioned above only consist of minority of people. Most of people have not received adequate protection. Other than that, the implementation of various social security programs is able to provide fair and adequate protection to the members in accordance with the program benefits as the members' rights.

In respect of above matters, it is necessary to establish a National Security System that is able to synchronize the administration of various types of social security conducted by several administrators to reach out bigger memberships as well as provide larger benefits for each members.

The principles of National Social Security System are as follows:

- Principle of mutual assistance. This principle is actualized in the mechanism of mutual assistance from the privileged members to the underprivileged members in form of mandatory membership for all people; the low risk members help the high risk members; and the healthy members help those who are sick. Through this principle of mutual assistance, social security may bring social justice for all people of Indonesia.
- Principle of non-profit. The management of trust fund is not aimed to seek profit (non-profit) for the Social Security Agency, rather to fulfill the best interests of the members. The trust fund, its investment yields, and budget surplus will be utilized for the best interests of the members.

- Principles of transparency, prudence, accountability, efficiency, and effectiveness. These management principles are applied and underlying all trust management activities from members contribution and its investment yields
- Principle of portability. The social security is purposed to provide security continuously despite changes in members' job or residence within the territory of the Unitary State of the Republic of Indonesia.
- Principle of mandatory membership. The mandatory membership is purposed to all people to be the members so that they can be protected. Although the mandatory membership is for all people, its application is adjusted to the economic ability of the people and the government as well as the feasibility of program administration. The first stage begins from formal workers, concurrently the informal sector will become members independently, and in turns the National Social Security System can cover all people.
- Principle of trust fund. The collected fund and contribution from the members are deposit with agencies to be managed for the best interests to optimize the fund for the members' welfare.
- Principle of investment yields of National Social Security Fund in this Law is the yield in form of dividend from the shareholders returned for the benefit of social security members.

This Law regulates the administration of National Social Security System consisting of health security, employment injury security, pension security, old-age security, and death security for all residents through employees' compulsory contribution. Those social security programs are administered by several Social Security Agencies. The Social Security Agency in this Law is the transformation of the existing Social Security Agency and it is possible to establish a new agency in accordance with the dynamics of social security development.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Principle of humanity is related to respect for human dignity. Principle of benefits is an operational principle related to efficient and effective management. Principle of justice is an ideal principle. Those three principles are aimed to guarantee the perpetuity of programs and members' rights.

Article 3

The term "basic life needs" means person's essential needs to achieve a decent standard of living, for the creation of social welfare for all Indonesian people.

Article 4

The principle of mutual cooperation in this provision is the principle of solidarity among members in bearing the cost of social security, realized in the obligations of any members to pay contribution pursuant to their salary, wage, or income levels.

The principle of non-profit in this provision is the principle of business management that emphasizes the use of investment yields for the maximum benefit of all members.

The principle of transparency in this provision is the principle of facilitating access to complete, accurate, and clear information to all members.

The principle of prudence in this provision is the principle of accurate, neat, secure, and orderly financial management of the funds.

The principle of accountability in this provision is the principle of accurate and accountable program administration and financial management.

The principle of portability in this provision is the principle which provides continuous security despite changes in members' job or residence within the territory of the Unitary State of the Republic of Indonesia.

The principle of mandatory participation in this provision is the principle of the mandatory participation in social security for all residents to be administered in stages.

The principle of trust fund in this provision is the principle in which contributions and its investment yields are to constitute a deposited

fund from members to be used in the best interest of the social security members.

The principle of investment yields of National Social Security Fund in this provision is the yield in form of dividend from the shareholders returned for the benefit of social security members.

Article 5

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The establishment of the Social Security Agency pursuant to this provision is aimed to adjust with the dynamics of social security development by keep giving opportunity to the existing/new Social Security Agency, in developing the scope of membership and social security programs.

Article 6

Sufficiently clear.

Article 7

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Point a

The review and research conducted in this provision are among others, the adjustment to transitional period, standard operating procedure of Social Security Agency, amount of contribution and benefits, the gradual stages of membership and program extension, fulfillment of members' rights, and obligations of Social Security Agency.

Point b

The investment policies in this provision are the fund deposit by considering the principles of prudence, yield optimization, fund security, and transparency.

Point c

Sufficiently clear.

Section (4)

The authorization to monitor and evaluate in this provision is aimed to guarantee the administration of social security program, including the level of financial health of Social Security Agency.

Article 8

Section (1)

The 15 (fifteen) members in this provision consist of 5 (five) members representing government, 6 (six) members representing figures and/or experts, 2 (two) members representing employers' organization, and 2 (two) members representing workers' organization.

The government representatives in this provision are from the department responsible for finance, manpower, health, social, and social welfare and/or defense and security, each of 1 (one) person.

Expert representatives in this provision consist of experts in insurance, finance, investment, and actuarial.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Sufficiently clear.

Article 14

Section (1)

The phrase “gradually” in this provision is aimed to consider the requirements of membership and program conducted by paying attention to state budget ability, such as initialized with health security program.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 15

Section (1)

Sufficiently clear.

Section (2)

The information in this provision is including rights and obligations as members, private account periodically minimum once in a year, and the investment of program being participated.

Article 16

Sufficiently clear.

Article 17

Section (1)

Sufficiently clear.

Section (2)

The term “periodical contribution payment” in this provision means monthly payment.

Section (3)

Sufficiently clear.

Section (4)

The poor and underprivileged in this provision are those as referred to in Article 34 section (1) and section (2) of the 1945 Constitution of the Republic of Indonesia.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Section (1)

Social insurance principle consists of:

- a. mutual cooperation among the rich and poor, the healthy and sick, the old and young, the high risk and low risk people;
- b. mandatory and non-selective membership;
- c. contribution as the percentage of wage/income;
- d. is non-profit.

Equity principle is the equity in obtaining service pursuant to medical needs not attached to the paid contribution.

Section (2)

Sufficiently clear

Article 20

Section (1)

Sufficiently clear.

Section (2)

Family members are legitimate husband/wife, biological children, step-children of legitimate marriage, and legitimate adopted children, maximum of 5 (five) members.

Section (3)

The term “other family members” in this provision means the fourth children and so forth, father, mother, and parents-in-law. To include other family members, the worker provides power of attorney to the employer to add their contribution to the Social Security Agency as regulated in this Law.

Article 21

Section (1)

This provision enables a member to sustain termination of employment relation with their family members are still receiving health security until the next 6 (six) months without paying in installments.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 22

Section (1)

The term “healthcare” in this provision consists of healthcare and counseling, immunization, Family Planning service, outpatient care, inpatient care, emergency service, and other medical actions, including dialysis and heart surgery. Those services are provided in accordance with standard service, whether the quality and type of service in order to guarantee the sustainability of program and members’ satisfaction. The wide span of healthcare is adjusted to members’ needs that subject to change and the financial ability of Social Security Agency. It is required for prudence.

Section (2)

The type of service is a moral hazard service that is highly affected by members’ taste and behavior, such as using supplement drugs, diagnostic examination, and actions inconsistent to medical needs. Co-payment must be a part of

control effort, especially control effort in receiving medical service. The determination of co-payment may be in form of certain nominal value or percentage of the service cost, and paid to healthcare facilities at the time receiving healthcare service.

Section (3)

Sufficiently clear.

Article 23

Section (1)

Healthcare service consists of hospitals, doctors, clinics, laboratories, pharmacies, and other healthcare facilities. The healthcare facilities are qualified if those healthcare facilities are acknowledged and licensed by Government institution responsible for health issues.

Section (2)

Sufficiently clear.

Section (3)

The compensation given to the members may be in form of cash, in accordance with the members' right.

Section (4)

Members desire a higher class to their right (standard class) may improve their right by participating in additional health insurance, or paying by themselves the deductible between the cost secured by Social Security Agency and cost to be paid due to class improvement.

Section (5)

Sufficiently clear.

Article 24

Section (1)

Sufficiently clear.

Section (2)

This provision requires the Social Security Agency to pay healthcare facilities effectively and efficiently. The Social Security Agency may provide certain budget to any hospital in an area to provide service to members or to pay a fixed number per capita per month (capitation). The budget consists of medical service,

treatment cost, supporting cost, and medicine cost in which detailed usage is set out separately by the directors of the hospital. Thereby, a hospital will be more flexible to utilize the fund as effective and efficient as possible.

Section (3)

In the healthcare development, the Social Security Agency applies quality control and price control systems including applying cost contribution to prevent healthcare abuse.

Article 25

The determination of price list and ceiling in this provision is aimed to consider the development of the availability of medical needs, as well as effectiveness and efficiency of drugs or disposable medical substance.

Article 26

Sufficiently clear.

Article 27

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The meaning of periodically in this provision is certain period to conduct review and revision pursuant to the development of needs.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Compensation in this provision may be in form of cash reimbursement, paramedic dispatch, or supplying certain medical facilities.

Section (4)

Members desire a higher class to their right (standard class) may improve their right by participating in additional health insurance, or paying by themselves the deductible between the cost secured by Social Security Agency and cost to be paid due to class improvement.

Article 33

Sufficiently clear.

Article 34

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The various amount of contribution adjusted to the risk level of work environment is also aimed to encourage the employers to reduce the risk level of their work environment and to create efficient operation.

Section (4)

Sufficiently clear.

Article 35

Section (1)

The social insurance principle in old-age security is based on insurance mechanism by paying contribution between the workers and employers.

The compulsory savings in old-age security is based on consideration that the old-age benefits are from the accumulated contribution and its investment yields.

Section (2)

The old-age security is provided to members not in their retirement age but suffered from permanent total disability resulting in inability to work and their contribution stops.

Article 36

Sufficiently clear.

Article 37

Section (1)

Sufficiently clear.

Section (2)

The government guarantees the administration of old-age security investment in accordance with the principle of prudence minimum equivalent to Government banks deposit rate of interest for one year so that the members obtain the fullest benefits.

Section (3)

Part of old-age security may be paid to assist the members in preparing their retirement age.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 38

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The Government will regulate the percentage of contribution to be paid by workers and employers.

Article 39

Section (1)

The pension security mechanism is basically based on social insurance, but this provision provides opportunity for the workers entering their retirement age but the contribution period not reaching the determined time, to be applied as compulsory savings and paid when they no longer work, plus its investment yields.

Section (2)

The decent life degree in this provision is the amount of pension security able to fulfill the basic needs of workers and their family members.

Section (3)

The term “defined benefits” means the existence of minimum and maximum limit of benefits to be received by the members.

Section (4)

Sufficiently clear.

Article 40

Sufficiently clear.

Article 41

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Children pension benefit is the payment of pension periodically to the children as the members’ beneficiaries,

maximum of 2 (two) children who are unemployed, have yet to be married, or until reaching 23 (twenty-three) years old, and will be without income source if the member died.

Point e

Parents benefit is the payment of pension periodically to the parents as the single member's beneficiaries if the member died.

Section (2)

The requirement of 15 (fifteen) years is necessary for the adequacy of accumulated fund to provide pension security until a certain period determined in form of this Law.

Section (3)

The pension security formula is determined on the basis of years of service and the latest wage.

Section (4)

Although the members have not fulfilled contribution period of 15 (fifteen) years, in accordance with social insurance principle, the beneficiaries are entitled to receive pension security as per determined formula.

Section (5)

Due to not fulfilling contribution period requirement, the pension security contribution is considered as compulsory savings.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Section (8)

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

Sufficiently clear.

Article 44

Sufficiently clear.

Article 45

Sufficiently clear.

Article 46

Sufficiently clear.

Article 47

Section (1)

The term “liquidity” means the financial ability of Social Security Agency in fulfilling its short-term obligations.

The term “solvency” means the financial ability of Social Security Agency in fulfilling its short-term and long-term obligations.

Section (2)

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Section (1)

Sufficiently clear.

Section (2)

The example of non-permitted cross-subsidy in this provision is the pension fund cannot be used to finance health security and vice versa.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 50

Section (1)

Technical reserve indicates the obligations of Social Security Agency arise out in order to fulfill the future obligations to the members.

Section (2)

Sufficiently clear.

Article 51

Sufficiently clear.

Article 52

Sufficiently clear.

Article 53

Sufficiently clear.

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