

NEWSLETTER

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NAVIGATING MASS TERMINATION IN INDONESIA: LEGAL FRAMEWORK AND KEY CONSIDERATIONS

Background

Over the last few years, mass layoffs have become increasingly common across various industries. Global economic situations, including recession as well as continued inflation have caused significant strain on businesses seeking to maintain financial stability. In Indonesia, the impact of global economic situation, domestic trade policies, as well as the weakening of the national currency plays a crucial role behind many companies' decision to implement cost cutting measures, which may include workforce reductions. In this case, companies' resort to mass layoffs may comprise of these two reasons, namely (i) restructuring for efficiency measures or (ii) financial distress or bankruptcy. Beyond these two primary reasons, many other industry-specific hurdles, such as the change of consumer behavior as well as the decline of purchasing power may also play a role in workforce reductions. As companies navigate these challenges, mass layoffs will likely remain a critical issue with legal, social, as well as economic consequences for both companies and employees in Indonesia.

I. Employer Authority and Legal Grounds for Mass Termination

In this matter, companies have the difficult responsibility of making manpower adjustments when business realities demand it. Retaining more employees than necessary is not only financially unsustainable but can also threaten the long-term stability of the company. Whether due to efficiency measures, economic downturns, or bankruptcy, mass layoffs are often a last resort to ensure business continuity. While these decisions are never easy, companies must navigate them with care, adhering to applicable labor laws and honoring contractual obligations to ensure fairness and minimize prolonged processes.

In general, the Indonesian legal framework does not specifically regulate mass termination; rather, it is simply treated as a standard



Liyanto Wijaya

Principal/Head of Employment Practice
Group

(liyanto@umbra.law)

Patia Chairunisa

Associate

(patia@umbra.law)

Michelle Angely

Associate

(michelle@umbra.law)

Muhammad Dante Priadi

Associate

(dante@umbra.law)

Abraham Rishad

Associate

(abraham@umbra.law)

UMBRA – Strategic Legal Solutions

Telkom Landmark Tower, 49th Floor

The Telkom Hub

Jl. Gatot Subroto Kav. 52

Jakarta 12710 – Indonesia

(+62) 21 5082 0999



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employment termination process carried out in bulk. Nevertheless, companies must ensure that workforce reductions comply with legitimate grounds for employment termination as recognized under Indonesian labor laws. According to Article 154A of Law No. 13 of 2003 on Employment as amended by Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law ("**Manpower Law**"), recognized grounds for termination include, among others, the following:

1. corporate action, if a company merges, amalgamates, is acquired, or separates and either party refuses to continue employment;
2. efficiency measures, with or without company closure, due to financial losses;
3. company closure due to the company experiencing continuous losses for 2 years;
4. company closure due to force majeure;
5. the company is in a state of suspension of debt payment obligations;
6. the company is bankrupt; or
7. certain wrongful acts committed by the company and the employees requests for termination.

In the context of mass termination, we see that the most cited justification typically includes efficiency measures, company closure due to financial loss, and bankruptcy. Among these, efficiency measures are frequently relied upon, particularly when companies need to restructure to reduce costs and maintain their business viability.

Additionally, Article 153 of the Manpower Law sets out prohibitions on employee termination, which companies must also consider. Beyond these legal grounds, we have outlined key considerations for conducting mass termination of employees below.

II. Employee Rights and Entitlements in Mass Termination

In the context of mass termination, employee rights differ depending on the type of employment agreement, namely Fixed-Term Employment Agreements (*Perjanjian Kerja Waktu Tertentu* or "**PKWT**") and Indefinite-Term Employment Agreements (*Perjanjian Kerja Waktu Tidak Tertentu* or "**PKWTT**").

Termination of PKWTT

Employees under PKWTT have broader rights in the event of mass termination. In this regard, for most grounds of termination, the company is obligated to provide severance pay, long-service pay, and compensation for entitlements, including for unused leave, repatriation expenses, and other benefits stipulated in employment agreements, company regulations, or collective labor agreements, in accordance with Government Regulation No. 35 of 2021 on Fixed-Term Employment Agreement, Outsourcing, Working Hours and Breaks, and Termination of Employment Relationships (“GR 35/2021”).

The amount of severance pay is determined based on years of service, with a maximum of nine months’ wage for employees who have worked for eight years or more:¹

Table II.1

Working Period	Severance Pay
< 1 Year	1 month wage
1 Year - < 2 Years	2 months’ wage
2 Years - < 3 Years	3 months’ wage
3 Years - < 4 Years	4 months’ wage
4 Years - < 5 Years	5 months’ wage
5 Years - < 6 Years	6 months’ wage
6 Years - < 7 Years	7 months’ wage
7 Years - < 8 Years	8 months’ wage
> 8 Years	9 months’ wage

Meanwhile, the long-service pay is granted to employees who have worked for at least three years, with a progressively increasing scale based on the length of service:²

Table II.2

Working Period	Long Service Pay
3 Years - < 6 Years	2 months’ wage
6 Years - < 9 Years	3 months’ wage

¹ Article 40 paragraph (2) GR 35/2021 and Article 156 paragraph (2) Manpower Law.

² Article 40 paragraph (3) GR 35/2021 and Article 156 paragraph (3) Manpower Law.

Working Period	Long Service Pay
9 Years - < 12 Years	4 months' wage
12 Years - < 15 Years	5 months' wage
15 Years - < 18 Years	6 months' wage
18 Years - < 21 Years	7 months' wage
21 Years - < 24 Years	8 months' wage
> 24 Years	10 months' wage

Further, in the case of a mass termination, as previously stated above, common justifications for mass termination include efficiency measures, company closure due to financial losses, and bankruptcy.

Under GR 35/2021, compensation for terminated employees depends on the grounds for termination. For instance, if mass termination occurs due to efficiency measures to prevent financial losses, affected PKWTT employees are entitled to:³

- a. Severance pay amounting to one-time severance pay calculation, in accordance with Table II.1 above.⁴
- b. Long service pay amounting to one-time long service pay calculation, in accordance with Table II.2 above.⁵
- c. Compensation rights for entitlements as mentioned above.⁶

Meanwhile if termination occurs due to company losses, severance pay is 0.5 times the severance pay calculation under the Table II.1, one-time long service pay calculation, in accordance with Table II.2, and compensation rights for entitlements as mentioned above.⁷

To illustrate, if an employee with a monthly wage of IDR 10 million has worked for 10 years in a company that implements efficiency measures due to company losses, the severance pay entitlement is calculated as 0.5 times the amount specified in Table II.1. Therefore, an employee with 10 years of service is entitled to 0.5 x 9 months' wage as severance pay.⁸ Thus, the employee will receive 4.5 months' wage (IDR 45 million).

³ Article 43 paragraph (2) GR 35/2021.

⁴ Article 43 paragraph (2) letter a GR 35/2021.

⁵ Article 43 paragraph (2) letter b GR 35/2021.

⁶ Article 40 paragraph (4) GR 35/2021.

⁷ Article 43 paragraph (1) GR 35/2021.

⁸ Article 43 paragraph (1) letter a GR 35/2021.

Additionally, the employee is entitled to 4 months' wage as long service pay (IDR 40 million), bringing the total compensation to IDR 85 million.⁹

III. Challenges and Dispute Resolutions in Mass Termination

While mass termination is legally permitted in Indonesia and follows the same procedures as individual termination, it remains a highly sensitive process that can lead to disputes between companies and employees. Employees who contest their termination are often represented by a labor union, provided it is officially registered. In the context of mass termination, labor unions play a pivotal role in the settlement process, as negotiating with each employee individually would be impractical and excessively time-consuming given the scale of such terminations.

The termination disputes arise when there is a disagreement over the termination decision made by either party. When conflicts arise, the dispute typically progresses through the following resolution stages:

1) Bipartite Negotiation

Under Indonesian law, employment termination disputes must first go through bipartite negotiations, where companies and employees (or a labor union, if any) seek a resolution within 30 business days.¹⁰ If an agreement is reached, both parties must sign a Mutual Termination Agreement (“**MTA**”) and register it with the Industrial Relations Court for enforcement. If one party fails to comply, the other may request a court order to enforce it.

If negotiations fail, the dispute moves to the tripartite stage. To proceed, either party must register the dispute with the local manpower office, proving that bipartite negotiations were exhausted. Additionally, the bipartite negotiation records must be documented in meeting minutes, detailing key aspects such as party identities, dispute reasons, opinions, and final conclusions. If documentation is incomplete, the parties must complete it within 7 business days before proceeding to the next stage.¹¹

⁹ Article 43 paragraph (1) letter b GR 35/2021

¹⁰ Article 3 Law No. 2 of 2004 on Industrial Relation Dispute Settlement and its amendments (“**IRDS Law**”).

¹¹ Article 4 paragraph (2) IRDS Law.

2) Tripartite Negotiation

When bipartite negotiations fail, disputes progress to tripartite negotiation, where a neutral third-party steps in to facilitate a resolution through mediation or conciliation. In cases of mass termination, these methods are often the preferred approach before resorting to litigation:

a. Mediation

Mediation applies to disputes related to termination, employment rights, or union conflicts with a government-appointed mediator facilitating discussions to assist both parties in negotiating the MTA. If mediation fails, the mediator issues a written recommendation, which must be accepted or rejected within 10 business days and a failure to respond is deemed a rejection.¹² In the event of rejection, the dispute proceeds to the Industrial Relations Court for adjudication.

b. Conciliation

Conciliation follows a similar process and applies to termination, labor interest disputes, and conflicts between unions. A registered conciliator facilitates negotiations to reach an MTA, which must subsequently be registered with the Industrial Relations Court. If conciliation does not yield a resolution, the conciliator issues a written recommendation, with the same acceptance or rejection process. Should the recommendation be rejected or remain unresolved, the case advances to the Industrial Relations Court for further adjudication.

3) Industrial Relations Court

If mediation or conciliation fails, the dispute escalates to the Industrial Relations Court, where employees may contest termination grounds, severance calculations, or other employment disputes. Claims must be filed in the court where the employee works and include the minutes of settlement from prior negotiations; without them, the claim will be returned.¹³ Once submitted, a panel of judges is formed within 7 business days, and the first hearing takes place within the next 7 business days.¹⁴ The

¹² Article 13 paragraph (2) IRDS Law.

¹³ Article 81 and Article 83 IRDS Law.

¹⁴ Article 88 paragraph (1) and Article 89 paragraph (1) IRDS Law.

court may request witnesses, expert testimony, or financial records, all of which must be provided.¹⁵

The Industrial Relations Court is required to render a ruling within 50 business days.¹⁶ If either party is absent at the time of the decision's announcement, a formal notice will be issued within 7 business days.¹⁷ While appeals to the Supreme Court are permissible, failure to file within 14 business days results in the decision becoming final and legally binding.¹⁸ In certain instances, the court may mandate immediate enforcement, even if an appeal is pending. Considering the high stakes and potential legal risks, it is important for companies to adopt a proactive and well-prepared approach to navigate this process effectively.

IV. Conclusion

In conclusion, while Indonesian Manpower Law does not specifically regulate mass termination, it is fundamentally a form of collective termination. Prior to conduct such action, companies must thoroughly evaluate the legal requirements for termination and remain fully aware of prohibitions to ensure full compliance with applicable regulations. Additionally, depending on the specific grounds for termination, employees are entitled to severance pay, long service pay, and other compensation, which must be calculated in accordance with the Manpower Law.

Nevertheless, challenges would remain as mass termination remains a sensitive issue, which frequently gives rise to disputes. In the event of disagreements, the resolution process begins with bipartite negotiations. Should these efforts proven unsuccessful, the dispute shall escalate to tripartite negotiations through either mediation or conciliation. If tripartite negotiations are to no avail, the matter is ultimately brought before the Industrial Relations Court.

Closing

For further assistance regarding manpower and employment, or related inquiries, please do not hesitate to contact our firm.

¹⁵ Article 90 IRDS Law.

¹⁶ Article 103 IRDS Law.

¹⁷ Article 105 IRDS Law.

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