

Analysis of the Implementation of the Employment Agreement Between Employees and the Company Regarding Overtime Wages (A Study at PT Asia Petrocom Services)

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Received: 12 April 2025; Revised: 10 May 2025; Accepted: 30 May 2025

ABSTRACT

Regulations regarding employment agreements are stipulated in Law Number 11 of 2020 concerning Job Creation. One form of employment agreement is a fixed-term employment agreement (PKWT). PT. Asia Petrocom Services is one of the companies that employs its workers with fixed-term employment agreements. This company operates in the oil and gas (MIGAS) sector. Employing workers with fixed-term employment agreements (PKWT) has led some companies to abuse workers' rights. This occurs with workers with fixed-term employment agreements (PKWT) at PT. Asia Petrocom Services. The problem in this research is how the implementation of overtime wages in the Employment Agreement between Employees and PT. Asia Petrocom Services Based on Law Number 11 of 2020 concerning Job Creation in Bengkalis Regency and how supervision is carried out by the Manpower and Transmigration Office of Bengkalis Regency. Regarding the implementation of the employment agreement between employees and PT. Asia Petrocom Services based on Law Number 11 of 2020 concerning Job Creation in Bengkalis Regency. This type of research is observational research using direct field surveys to collect primary and secondary data obtained from respondents through questionnaires and interviews to be used as data/information as material for writing the research. The nature of the research is descriptive, providing a clear picture of the implementation of the work agreement between employees and PT. Asia Petrocom Services based on Law Number 11 of 2020 concerning Job Creation in Bengkalis Regency. The results of the author's research show that the implementation of fixed-term work agreements at PT. Asia Petrocom Services in Mandau District has not been realized properly, because it still conflicts with the applicable laws and regulations, such as the existence of working hours that are not in accordance with the applicable laws and regulations and the provision of salaries that are still below the UMK for workers with Fixed-Term Work Agreements (PKWT) due to the lack of efficient supervision carried out by the Manpower and Transmigration Office, resulting in many employers still violating the rules that have been explained in Law Number 11 of 2020 concerning Job Creation.

Keywords: *Implementation, Agreement, Wages, Employees and Company*

1. Introduction

In the implementation of national development, the workforce has a very important role and position as an actor and goal of development, thus workforce development is needed to improve the quality of the workforce and its participation in development and increase the protection of the workforce and its families in accordance with human dignity and honor. Protection of the workforce is intended to guarantee the basic rights of workers and guarantee equal opportunities and be treated without discrimination on any basis to realize the welfare of workers and their families while still paying

attention to the development of the progress of the business world.¹

In the mandate of the Constitution in Article 27 Paragraph (2) of the 1945 Constitution which states that every citizen has the right to work and a decent living for humans. The contents of this article have been implemented by creating laws and regulations that regulate employment that have been in effect until now, including the contents which are a colonial product that places workers in a less advantageous position both in terms of service, wages and placement of workers, and an industrial relations system that clearly has differences in position and interests so that it is no longer appropriate to the needs of the present day.

PT. Asia Petrocom Services is a company engaged in the Oil and Gas sector that currently operates at PT. PHR, PT. Asia Petrocom Services is engaged in drilling and material transportation for all PT. Pertamina Hulu Rokan in Riau Province. Various transportation models are used for various purposes such as Rig transfers, handling drilling materials, waste management and employee transportation.

In the current era of economic development, PT. Asia Petrocom Services offers significant opportunities for its workforce to be more productive and functional in the nation's economic development. Every country is currently competing to undertake rapid development to support the needs of its citizens. Therefore, regulations governing employment, namely Law Number 11 of 2020 concerning Job Creation, are needed. The government plays a significant role in supporting policies to protect its workforce.

Every employment relationship must begin with an employment agreement. In an employment agreement, both parties must reach an agreement. The agreement between the worker and the employer aims to reach a consensus on the contents of the employment agreement, so that neither party feels disadvantaged by the contents of the employment agreement. The purpose of the employment agreement above must be fulfilled by both parties so that the agreement is valid. If the employment agreement is not fulfilled or the skills are not met, the implementation of the agreement can be canceled. And if the employment agreement contains work prohibited by law, the agreement can be declared null and void by law.

In the implementation of work, a person makes his own efforts with his own capital and is responsible for himself, so the implementation of work is called self-effort, while the implementation of work where he works for other people, depends on other people where he has to follow orders from other people and must submit and obey other people who have given him work, so the implementation of work is called work.² The meaning of the definition of worker above shows that the worker in carrying out his duties is under the control of his leader, namely the employer.³ Not forgetting employers. To fulfill their obligations under the agreement between employers and

¹ Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia* (PT. Citra Aditya Bakti, 2014).

² Eko Wahyudi, *Hukum Ketenagakerjaan* (Sinar Grafika, 2016).

³ Budiono Abdul Rahman, *Hukum Perburuhan* (PT. Indeks, 2013).

employees, which stipulates that employers must provide decent wages to employees, employers cannot arbitrarily violate their obligations. We often encounter employers neglecting their employees' wages. This leads to demonstrations at labor offices and companies that neglect their obligations. Delays in employee wages are common because employers underestimate their employees and often delay their payments. Therefore, regulations are needed to regulate workers' rights to receive wages and protect them.⁴

The law must be present to guarantee workers' rights so that their rights are not violated by employers. The presence of law in society, among other things, is to integrate and coordinate interests that could collide with each other. The law is integrated in such a way that these collisions can be minimized. The organization of these interests is carried out by limiting and protecting them. Indeed, in a traffic of interests, protection of certain interests can only be achieved by limiting the interests of others.⁵ "These labor rights include: The Right to a Decent (Human) Wage. Everyone who works for a person or agency has the right to receive wages, this is stated in the protection of labor laws regarding wages, PP No. 8 of 1981 and Manpower Law No. 13 of 2003."⁶

Overtime pay is the pay given when workers work more than the working hours stipulated in employment regulations, namely more than 8 hours a day for 5 working days, and 7 hours a day for 6 working days, or an accumulated total of 40 hours of work per week.⁷ The rights that must be protected from workers are wages including overtime pay, which is additional wages given to workers when the workers work beyond the agreed working hours. In the article on overtime hours, it has also been explained that if the working hours have exceeded the time that has been set, the employer, namely if the overtime period exceeds the agreed period, is obliged to pay overtime compensation to the workers who work.

However, the reality is that there are still companies that employ their employees for more than 7 (seven) hours a day and 40 (forty) hours a week for 6 (six) working days in 1 (one) week or 8 (eight) hours a day, and 40 (forty) hours a week for 5 (five) working days in 1 (one) week or working hours on weekly rest days and/or on official holidays determined by the government and not given overtime pay, so that the workers lose their rights. Such as what happened in the private industry originating from PT. Asia Petrocom Services where the workers were employed from the specified time but were not paid compensation for their overtime, thus the workers/laborers have lost their

⁴ Muhammad Azhar, *Hukum Ketenagakerjaan* (UNDIP Semarang, 2015).

⁵ Erma Rudiana, *Pengantar Ilmu Hkum : Mengenal Tata Nilai Norma Dan Filsafah Dasar Pembentukan Ilmu Hukum* (Scopindo, 2022).

⁶ Azis Abdul, Handriani Aan, and Basri Herlina, 'Perlindungan Hukum Hak Pekerja Pada Perjanjian Kerja Waktu Tertentu Dalam Ketenagakerjaan', *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan*, 10.1 (2019), pp. 59-74 <<https://core.ac.uk/download/pdf/337609781.pdf>>.

⁷ Taufiq Yulianto, 'Perlindungan Terhadap Pekerja/Buruh Mengenai Waktu Kerja Lembur Dan Upah Waktu Kerja Lembur', *Jurnal Orbith*, 11.2 (2015), pp. 118-21 <<https://jurnal.polines.ac.id/index.php/orbith/article/view/336>>.

rights, and also from the side of the entrepreneur who did not distribute the rights that should be obtained by the workers and did not implement it as a good entrepreneur as agreed in the industry where workers who work beyond their working hours are required to receive compensation for their overtime. Based on the description that has been stated, the researcher saw that there were companies in Duri-Riau that employed employees who worked beyond the working hours stipulated by law.

2. Research Method

The author uses an observational research method, namely by conducting direct research at PT. Asia Petrocom Services to obtain data. The implementation of this research is descriptive, the purpose of this research is to provide data as accurate as possible regarding the implementation, conditions and other symptoms. The primary data used in this research is the main data obtained in the field by conducting direct interviews with several respondents who have been appointed by the author and secondary data, which is ready-made data obtained from books, literature that supports the main problem discussed.

3. Result and Discussion

3.1. Analysis of the Implementation of the Employment Agreement Between Employees and the Company Regarding Overtime Worker Wages (Study at PT. Asia Petrocom Service)

Basically, the application of workers' wages must be based on an authentic/written work agreement so that there is clarity in carrying out the work, the workers studied at PT. Asia Petrocom Services are PKWT (Specific Term Work Agreement) workers where the term of the work agreement has ended then the work also ends, This will provide long-term job uncertainty for workers because workers are not necessarily getting a job again in the near future. However, if the company extends the work period, it will not cause problems for workers with a specific work agreement, PT. Pertamina Hulu Rokan is a State-Owned Enterprise (BUMN) from Indonesia where the company prioritizes the welfare of its employees and contractors who partner with them.

According to Mr. Salman Alfarisi S.T., Head of the Manpower and Transmigration Office of Bengkalis Regency, it is better if the employment agreement should be made in writing, although in the Law it is permitted to have an employment agreement made verbally, but in the corporate world formal legality must still be held, but for a certain period of employment agreement, a written employment agreement is mandatory (Results of the Author's Interview with Mr. Salman Alfarisi S.T., Head of the Manpower and Transmigration Office of Bengkalis Regency). The employment agreement made by the parties is legal evidence that applies both between workers and employers, which aims to implement the rights and obligations for both parties so that no one feels disadvantaged in its implementation.

That after the employment agreement is agreed upon, the rights and obligations of workers and employers apply, one of which is the issue of wages. Regarding the determination of wages for employees with fixed-term employment agreements at PT. Asia Petrocom Services, it is not in accordance with the minimum wage of Bengkalis Regency. The company still provides wages of Rp. 3,250,736 to fixed-term workers. It should be noted that the Riau Province Manpower and Transmigration Office together with the Wage Council has set the city minimum wage (UMK) for Bengkalis Regency in 2023 at Rp. 3,599,029.72 (Riau Governor's Decree Number Kpts./1783/XII/2022). Based on the explanation above, it can certainly be seen that the company has committed a deviation or violated applicable legal provisions. As stated in Article 90 paragraph 1 of Law Number 13 of 2003 concerning Manpower, companies are prohibited from providing wages lower than the minimum wage set by Riau Province.

Based on the results of the author's interview with the HRD Team of PT. Asia Petrocom Services regarding the deviations made by the company regarding the wages given to employees for fixed-term workers, the wages given to employees of fixed-term workers at Rig #752 PT. Asia Petrocom Services are still below the latest minimum wage in 2022, where the contract for Rig #752 PT. Asia Petrocom Services which is still operating in the area of PT. Pertamina Hulu Rokan Indonesia, the contract started in 2020 and until now, the company PT. Asia Petrocom Services still adopts the 2017 Riau Province Minimum Wage (Results of the author's interview with the HRD Team of PT. Asia Petrocom Services).

Meanwhile, the response given by Mr. Salman Alfarisi S.T. Head of the Manpower and Transmigration Office of Bengkalis Regency, Manpower and Transmigration Office of Riau Province, is that wages or salaries to workers must be paid according to the minimum wage of Bengkalis Regency in 2022, which is IDR 3,599,029.72. This has also been realized or announced through mass media or print so that workers and employers can know about it.

Wages for work for a fixed period must be made in writing in the form of an agreement made in Indonesian and using Latin letters, one of the conditions of which is that it must include the amount of wages and the method of payment in an employment agreement.⁸ Regarding the wage issue, the company has paid employee wages according to the agreed amount, which is paid on time. This is known by the author from the questionnaire answers that the author gave to workers with fixed-term employment contracts, where from a population of 58 people, 29 people were taken as respondents. Of the 29 respondents to whom the author distributed the questionnaire, or 50% of the percentage, answered that the basic wage provided by PT. Asia Petrocom Services was in accordance with what was in the employment agreement made with the employees.

Then regarding working hours, it is regulated in Article 77 paragraph (2) of Law Number 13 of 2003 concerning Manpower, namely:

⁸ Gunarto Suhardi, *Perlindungan Hukum Bagi Para Pekerja Kontrak Outsourcing* (Universitas Atmajaya, 2016).

- a. 7 (Seven) hours 1 (one) day and 40 (forty) hours in 1 (one) week for 6 (six) working days in 1 (one) week.
- b. 8 (eight) hours 1 (one) day and 40 (forty) hours in 1 (one) week for 5 (five) working days in 1 (one) week.

Furthermore, regarding employee working hours at PT. Asia Petrocom Services, starting from 08.00 WIB to 17.00 WIB every day from Monday to Sunday, where the work process is a 7-Day Day, 7-Day Night and 7-Day Holiday schedule system. The total number of employees working is 9 (Nine) hours in 1 (One) day, then subtracting 1 (one) hour for rest time except on Fridays when workers are given a 2-hour rest period. Workers work for 6 (Six) days in 1 (One) week. This information was obtained by the author from the results of the author's interview with the HRD Team of PT. Asia Petrocom Services (Results of the author's interview with the HRD Team of PT. Asia Petrocom Services).

Regarding the working period given to workers with fixed-term work agreements at PT. Asia Petrocom Services, the author can find out through the answers to the questionnaire that the author distributed. that 29 (Twenty-Nine) of the respondents to whom the author distributed the questionnaire or 50% of the percentage answered that workers work for 8 hours in 1 day. This is certainly in accordance with the provisions regarding working hours as regulated in Article 77 of Law Number 13 of 2003 concerning Manpower. Workers also work for 7 days during the day, 7 days at night and 7 days off, if added up, workers work for 112 hours 14 days in 2 weeks. As stated in Article 77 paragraph (2) letter (a) of Law Number 13 of 2003 concerning Manpower.

Furthermore, it is emphasized again regarding working hours for workers, namely, for companies that employ workers/laborers to work beyond the working hours as referred to in Article 77 paragraph (2) must fulfill the conditions as stated in Article 78 paragraph (1), namely: (a) there is agreement from the worker/laborer concerned, and (b) overtime work can only be done for a maximum of 3 (three) hours in 1 (one) day and 14 hours in 1 week (Article 78 paragraph (1) of Law Number 13 of 2003 concerning employment).

From the results of the author's interview with Mr. Salman Alfarisi S.T as the Head of the Manpower and Transmigration Office of Bengkalis Regency, he said that the working hours determined by the company must not be in conflict with Law Number 13 of 2003 concerning Manpower, where if workers work for 8 hours in 1 day, the company must pay overtime wages to employees (Results of the author's interview with the Head of the Manpower and Transmigration Office of Bengkalis Regency, Mr. Salman Alfarisi S.T as the head of the Manpower and Transmigration Office of Bengkalis Regency).

Overtime pay is a wage payment given by the company to workers/laborers who work beyond the stipulated working hours. Workers/laborers who work overtime are required to be paid by the employer as stated in Article 33 concerning overtime pay in Government Regulation Number 78 of 2015 concerning wages. However, based on a survey of workers who work at PT. Asia Petrocom Services have also worked overtime

hours, the work carried out by workers/laborers during overtime hours is not paid by PT. Asia Petrocom Services, which is known that 29 (Twenty Nine) of the respondents or 50% of the total respondents to whom the author distributed the questionnaire answered that workers do not receive overtime pay if there are additional working hours carried out by workers. This was also explained by the HRD Team of PT. Asia Petrocom Services that not all work done outside of working hours will receive overtime pay. Such as replacing employees who are unable to come in and being replaced by workers/laborers who are on leave (Results of the author's interview with the HRD Team of PT. Asia Petrocom Services).

3.2. Supervision by the Bengkalis Regency Manpower and Transmigration Office of the Implementation of Overtime Wages Between Employees and PT. Asia Petrocom Service

The implementation of labor inspection is based on Law Number 13 of 2003 concerning Manpower, which is contained in Chapter 14 concerning inspection and also Law Number 21 of 2003 concerning the ILO Convention. The purpose of labor inspection is to supervise and comply with labor laws and regulations, which are implemented by labor inspection employees. The implementation of inspection aims to supervise labor laws and regulations to ensure the effective implementation of labor laws and regulations related to employment relations and working conditions, as well as to provide information and technical advice to employers, managers or workers.

Labor inspectors according to Government Regulation Number 36 of 2021 concerning Wages are civil servants who are given full duties, responsibilities, authority and rights by authorized officials to carry out coaching, inspection, testing, investigation and development activities of the labor inspection system in accordance with the provisions of laws and regulations.⁹ The results of the information from PT. Asia Petrocom Services employees regarding the guidance and socialization carried out by the Bengkalis Regency Manpower and Transmigration Office to companies including workers so that they can implement all the rules regarding the legal basis of employment from 29 Respondents who filled out the questionnaire that the author distributed answered that the Bengkalis Regency Manpower and Transmigration Office did not provide guidance and socialization to companies and workers regarding legal regulations regarding employment. Then Based on the results of the author's interview with the HRD Team of PT. Asia Petrocom Services that the Bengkalis Regency Manpower and Transmigration Office does'nt always provide guidance and socialization regarding regulations regarding Employment but it also does not mean that it has never been done (Results of the author's interview with the HRD Team of PT. Asia Petrocom Services).

Then the Head of the Manpower and Transmigration Office of Bengkalis Regency

⁹ Dila Pawestri Rahartiana and Bagus Sarnawa, 'PENGAWASAN DINAS TENAGA KERJA DALAM PENGUPAHAN TERHADAP PEKERJA', *MEDIA KEADILAN; Jurnal Ilmu Hukum*, 2024, pp. 122-37, doi:10.37676/Professional.V10i1.3544.1.

stated that labor supervision must be carried out in employment relationships, this is evidenced by the existence of government policies in the form of laws and regulations stipulated by laws and regulations in the field of employment. In addition, the government is obliged to regulate the rights and obligations between employers and workers/laborers. This applies to policies regulated in laws and regulations in the field of human resources. It is hoped that through this policy, a harmonious working relationship can be established, so that employers are increasingly advanced and workers/laborers are increasingly prosperous "(Results of the author's interview with the Head of the Manpower and Transmigration Office of Bengkalis Regency, Mr. Salman Alfarisi S.T as the head of the Manpower and Transmigration Office of Bengkalis Regency)".

Labor inspection plays a crucial role in the implementation of national labor policies and regulations. Labor inspection is not only necessary to ensure that improvements are made in the workplace, but also to encourage them to occur in the workplace. Labor inspection services are increasingly targeting preventive policies. To achieve the aforementioned harmony, government oversight is needed to monitor the policies being implemented. This is crucial to prevent any detrimental effects on both parties (including employers and workers/laborers). With the increasing role of the workforce in the development of Bengkalis Regency and the increasing use of technology in various sectors, business activities pose higher risks and threaten the safety, health, and welfare of the workforce. Therefore, it is necessary to improve labor protection.¹⁰

Supervision must be continuously carried out, especially supervision regarding the implementation of working hours and rest periods. However, based on the results of the questionnaire distributed by the author to 29 respondents, it is known that supervision by the Bengkalis Regency Manpower and Transmigration Office regarding the implementation of working hours and rest periods does not exist, which can be seen from the results of the answers applied by PT. Asia Petrocom Services employees, namely 29 (Twenty Nine) people from respondents. This is also in line with the results of the author's interview with the HRD Team of PT. Asia Petrocom Services, that supervision by the Bengkalis Regency Manpower and Transmigration Office regarding the implementation of working hours and rest periods has never been carried out because the implementation of working hours and rest periods has never been carried out, the implementation of working hours and rest periods is determined by the company (Results of the author's interview with the HRD Team of PT. Asia Petrocom Services).

Then regarding this matter, based on the results of the interview with the author and Mr. Salman Alfarisi S.T., Head of the Manpower and Transmigration Office of Bengkalis Regency, regarding the implementation of working hours and rest times, it is not done directly, but only in the form of an appeal to the company (Results of the author's interview with the Manpower and Transmigration Office of Bengkalis

¹⁰ Hamzah, *Problematika Hukum Indonesia Teori Dan Praktik*, 2017.

Regency, Mr. Salman Alfarisi S.T., Head of the Manpower and Transmigration Office of Bengkalis Regency).

In addition to working hours, supervision is also carried out on the provision of wages and benefits that are the rights of workers. Based on the questionnaire that the author distributed regarding supervision by the Bengkalis Regency Manpower and Transmigration Office regarding Wages and Allowances, it is known that supervision by the Bengkalis Regency Manpower and Transmigration Office regarding salary compensation and allowances is not carried out by the Bengkalis Regency Manpower and Transmigration Office, where this can be seen from the results of the answers given by PT. Asia Petrocom Services employees, namely 29 (Twenty Nine) people from respondents.

This situation clearly does not provide protection for workers who work based on the Fixed-Term Employment Agreement (PKWT) system. As we all know, one of the goals of employment development is to provide protection for workers/laborers in the process of realizing welfare. The provisions of Article 4 of Law Number 13 of 2003 concerning Employment. This situation arises because the implementation of the Fixed-Term Employment Agreement (PKWT) is not clear, so it is widely used by many parties (especially employers). One example is the type and nature of work that can only be done by workers/laborers based on the Fixed-Term Employment Agreement (PKWT). In reality, a worker/laborer who will work in a company will reach an agreement with the company that will employ him/her in the form of an employment agreement with the employer or entrepreneur. The employment agreement is the beginning of the employment relationship between the worker and the employer.¹¹

4. Conclusion

The implementation of employee wages with PT. Asia Petrocom Services based on Law Number 13 of 2003 concerning Manpower is not running because the company still commits deviations that are not in accordance with Law Number 13 of 2003 concerning Manpower, where the company still provides wages to workers/laborers below the UMK in accordance with the applicable Decree of the Governor of Riau Number: Kpts.1783/XII/2022 and employs workers beyond the working hours specified by the Law by fully paying the workers' overtime wages. Supervision by the Bengkalis Regency Manpower and Transmigration Office on the implementation of Employee Wages with PT. Asia Petrocom Services is not yet optimal because the implementation of supervision has not been fully carried out so that the implementation cannot run well in terms of working hours, rest times and payment of wages.

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