



Legal Liability of Contract Workers Who Terminate Employment Relationships Unilaterally: A Study of Article 17 of Government Regulation Number 35 of 2021

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ABSTRACT

This study is intended to describe the form of legal accountability for workers with the status of Fixed-Time Work Agreements (PKWT) who resign without going through the agreed procedures, as well as assess the implementation of Article 17 of Government Regulation No. 35 of 2021 regarding the termination of employment before the contract period ends. The research uses normative juridical methods through literature search, analysis of laws and regulations, legal principles, and doctrines related to employment. The results of the study show that unilateral resignation by PKWT workers does not eliminate the right to compensation, because employers are still obliged to pay compensation money as stipulated in Article 15 and Article 17 of Government Regulation No. 35 of 2021 based on the actual working period. However, the implementation of this rule often does not run optimally because many workers choose not to demand their rights, plus the practice of oral PKWT, which opens up room for deviations from contractual principles. Therefore, it is necessary to increase supervision and enforcement of rules by the government, especially the Manpower Office, so that the protection of PKWT workers is carried out effectively.

Keywords: PKWT, compensation, termination of employment, Article 17 GR 35/2021, labor law.

ABSTRAK

Penelitian ini dimaksudkan untuk menguraikan bagaimana bentuk pertanggungjawaban hukum bagi pekerja dengan status Perjanjian Kerja Waktu Tertentu (PKWT) yang mengundurkan diri tanpa melalui prosedur yang disepakati, serta menilai implementasi Pasal 17 PP No. 35 Tahun 2021 mengenai penghentian hubungan kerja sebelum masa kontrak berakhir. Penelitian menggunakan metode yuridis normatif melalui penelusuran literatur, analisis peraturan perundang-undangan, asas hukum, serta doktrin terkait ketenagakerjaan. Hasil kajian memperlihatkan bahwa pengunduran diri sepihak oleh pekerja PKWT tidak menghapuskan hak atas kompensasi, karena pengusaha tetap berkewajiban membayar uang kompensasi sebagaimana ketentuan Pasal 15 dan Pasal 17 PP No. 35 Tahun 2021 berdasarkan masa kerja aktual. Meski demikian, penerapan aturan ini sering tidak berjalan optimal karena banyak pekerja yang memilih tidak menuntut haknya, ditambah adanya praktik PKWT lisan yang membuka ruang penyimpangan atas prinsip kontraktual. Oleh sebab itu, diperlukan peningkatan pengawasan dan penegakan aturan oleh pemerintah, khususnya Dinas Tenaga Kerja, agar perlindungan pekerja PKWT terlaksana secara efektif.

Kata Kunci: PKWT, kompensasi, pemutusan hubungan kerja, Pasal 17 PP 35/2021, hukum ketenagakerjaan.

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INTRODUCTION

One of the main functions of labor law is to provide protection to workers, create equal employment opportunities, and improve the welfare of workers and their families. Labor law plays a role in maintaining social justice and balancing the bargaining position between workers and employers so that employment relations take place equally. However, creating an ideal working relationship is still a challenge in the field¹.

From the perspective of legal theory, the existence of labor law is inseparable from the basic value of law. Gustav Radbruch emphasized that the law must meet the elements of justice, utility, and legal certainty². On the other hand, the theory of legal protection by Philipus M. Hadjon emphasizes that the state is obliged to protect the weaker through preventive and repressive protection³. In addition, John Rawls's *Social Justice Theory* is relevant because it places the protection of vulnerable groups as a priority through the *principle of difference principle*, which demands that legal arrangements must provide the greatest benefit to the weakest party, namely, workers⁴.

In the context of employment relations, contract theory explains that employment agreements are based on the principle of freedom of contract, the principle of consensualism, and the principle of *pacta sunt servanda*. However, in labor law, the principles of the contract are not applied absolutely, because the state must intervene to protect workers as parties with lower bargaining positions. This view is in line with Molenaar's thought that labor law is a combination of private and public elements⁵.

Furthermore, industrial relations in Indonesia are influenced by the Pancasila Industrial Relations Theory (HIP), which emphasizes the values of mutual cooperation, humanity, justice, and consensus deliberation. HIP encourages the creation of harmonious, equitable, and working relationships between workers, employers, and the government⁶.

In a broader framework, labor regulation is also related to the welfare state theory, which places the state as a guarantor of community welfare through legal intervention, supervision, and the provision of social security⁷. Intervention in PKWT and

¹ Karunia Rosita, "Labor Law as a Protective Instrument for Labor and Employers in Handling Labor Relations Problems" 11 (2023): 41–49.

² Medical Disputes, in Law, and Law Number, "Theoretical Analysis of the Legal Purpose of Gustav Radbruch in the Position of the Medical Dispute Settlement Assembly in Law Number 17 of 2023 concerning Health" 08, no. 2 (2024): 315–26.

³ Edy Purwito, "IN THE CITY OF SURABAYA" 13, no. 1 (2023).

⁴ Angga Christian, Ainun Nabilah, and Sulthoni Ajie, "The Theory of Justice According to John Rawls" 07, no. 1 (2025): 598–611.

⁵ <https://www.hukumonline.com>

⁶ With labor, the company is seen, and from aspect, "Vol.II/no.2/January-March/2014 Special Edition of Rumimpunu F: Indus Relations System ...," no. 2 (2014): 117–26.

⁷ Rewang Rencang et al., "DYNAMICS OF THE CONCEPT OF WELFARE STATE IN INDONESIA : " 5, no. 10 (2024): 1–19.

the provision of compensation are manifestations of the state's role in protecting workers from potential labor market exploitation.

In addition, the dynamics of modern employment relations demand the application of Responsive Legal Theory (Nonet & Selznick). According to this theory, good law is responsive to the needs of society, including changes in work patterns and the complexity of contractual relationships⁸. In the context of PKWT, the application of compensation rules, restrictions on the type of work, and prohibition of probationary periods reflect a responsive legal orientation that emphasizes the substance of protection rather than contractual formalities.

In practice, legal theory not only talks about formal rules but also touches on ethical aspects. Therefore, it is also important to consider the Theory of Propriety and Fairness (*Equity Theory*). According to this theory, justice must be seen from equality of treatment and proportionality between rights and obligations. In the context of PKWT, compensation provisions for workers who resign can be seen as an effort to maintain a sense of substantive justice and prevent inequality in employment relations⁹.

The employment relationship itself arises due to the existence of a work agreement as regulated by Article 1601a of the Civil Code. Law Number 13 of 2003 and its amendments through the Job Creation Law and Government Regulation No. 35 of 2021 emphasize three forms of employment relationships: PKWTT, PKWT, and freelance daily work. The existence of PKWT as a contractual employment relationship is strictly limited to prevent deviations from the principle of justice¹⁰.

In principle, employment agreements can be made in writing or orally. However, in practice, PKWT must be made in writing for the sake of legal certainty and to avoid disputes. Written agreements are also in line with modern legal principles that uphold transparency, accountability, and protection for workers¹¹.

In practice, not all working relationships go smoothly. When the termination of the employment relationship is unilaterally carried out by the employer, the obligation to provide workers' rights and compensation remains in effect. But when workers resign before the end of the contract period, questions arise about whether compensation should still be given. Article 17 of Government Regulation No. 35 of 2021 states that compensation must still be given, regardless of who terminates the employment relationship.

This provision can be understood through the perspective of corrective justice, which serves to restore a balance between the rights and obligations of the parties when

⁸ Agam Ibnu Asa et al., "NONET AND SELZNICK'S RESPONSIVE LAW CONCEPT IN A HISTORICAL" 03, no. November (2021): 96–109.

⁹ <https://medium.com/management-now/equity-theory->

¹⁰ <https://peraturan.bpk.go.id/Details/161904/pp-no-35-tahun-2021>

¹¹ Dwi Maulandari, "Legal Protection in Fixed-Time Work Agreements (PKWT) Reviewed from the Guarantee of Workers' Rights (NRI Law Number 13 of 2003)" 4, no. April (2025): 167–96.

a unilateral action occurs¹². Within the framework of the welfare state, this provision also affirms that the basic rights of workers cannot be abolished under any circumstances. Thus, this study is directed at two objectives: (1) Analyzing the form and mechanism of legal accountability for PKWT workers who resign unilaterally; (2) explaining the concept of the application of Article 17 Government Regulation No. 35 of 2021 in the context of termination of employment before the contract period ends.

RESEARCH METHODS

1. Types and Approaches to Research

This research uses a normative juridical approach, namely legal research that examines the norms, principles, and positive legal principles that apply related to the mechanism for termination of employment in PKWT and the concept of legal accountability based on Article 17 of Government Regulation No. 35 of 2021¹³. The normative juridical approach was chosen because the focus of the research lies in the analysis of laws and regulations, legal doctrines, labor law principles, and relevant legal theories.

In addition, this research also utilizes a conceptual approach to examine contract law theory, Pancasila industrial relations theory, welfare state theory, justice theory, and other legal theories related to labor relations and worker protection.

2. Nature of Research

This research is descriptive-analytical, which systematically describes the legal arrangements regarding PKWT, the rights and obligations of the parties, and the mechanism for termination of employment relationships. Furthermore, this study analyzes the application of Article 17 of Government Regulation No. 35 of 2021, including the legal implications if workers unilaterally terminate the employment relationship.

Thus, the research not only exposes norms but also provides a critical analysis of the suitability between rules, legal theories, and practice in the field.

3. Research Approach

This research uses several normative approaches, namely:

a. Statute Approach

Examine all regulations that are the basis for PKWT and compensation arrangements, such as:

- 1) Civil Code Article 1601a,
- 2) Law Number 13 of 2003,
- 3) Job Creation Law,

¹² According to Karl Max, "Theory," 2023, 1–12, <https://doi.org/10.1111/praxis.xxxxxxx>.

¹³ Regina Meylisa Permatasari, Holyness N Singadimedja, and Rafan Darodjat, "Legal Protection for Ex-Employees Who Have Been Terminated by Arrears of Allowances for Workers and Their Families. Allowances in this context are," no. November (2025).

- 4) PP No. 35 of 2021,
- 5) Regulation of the Minister of Manpower related to the implementation of PKWT, compensation, and industrial relations.

b. Conceptual Approach

Using legal theories such as:

- 1) Contract theory,
- 2) Legal protection theory,
- 3) Pancasila industrial relations theory,
- 4) The theory of the welfare state,
- 5) Theory of justice,
- 6) Responsive legal theory,
- 7) Theory of propriety and reasonableness.

This approach is necessary to explain the philosophical and conceptual basis for the provision of compensation, even if termination is carried out by the worker.

4. Legal Sources and Materials

This research uses three types of legal materials:

a. Primary Legal Materials

Namely applicable laws and regulations and court decisions, including:

- 1) Civil Code,
- 2) Law No. 13 of 2003,
- 3) The Job Creation Act,
- 4) PP No. 35 of 2021,
- 5) Permenaker related to PKWT, compensation, and industrial relations,
- 6) Industrial Relations Court Decision (if taken).

b. Secondary Legal Materials

Includes:

- 1) Employment law literature,
- 2) Employment and contract doctrine book,
- 3) Scientific journals,
- 4) The opinions of experts such as Molenaar, Simanjuntak, Payaman, and others,
- 5) Academic articles related to PKWT and compensation.

c. Tertiary Legal Materials

Includes legal dictionaries, encyclopedias, and other supporting resources that help understand legal terminology.

5. Legal Materials Collection Techniques

Data collection techniques are carried out through:

1. Library Research:

Collecting, studying, and classifying primary, secondary, and tertiary legal materials from:

- 1) The Laws and Regulations,
 - 2) scientific journals,
 - 3) textbooks,
 - 4) legal database.
2. Document Study
Search relevant industrial relations court decisions (if used).

6. Legal Material Analysis Techniques

Legal materials are analyzed by a qualitative analysis method through the following stages:

1. Inventory of all legal norms that govern PKWT and termination of employment.
2. Legal interpretation using the following methods:
 - a) grammatical interpretation,
 - b) systematically,
 - c) teleological, and
 - d) Historically,According to the needs of the analysis.
3. Legal argumentation, which relates norms, legal theories, and legal principles to produce conclusions.
4. Evaluate the conformity between practice in the field and written norms, especially related to workers' compensation obligations and legal liability.

The results of the analysis were then systematically compiled to find answers from two research objectives.

DISCUSSION AND FINDINGS

1. Legal Liability of PKWT Workers Who Resign Unilaterally

In the national legal order, every citizen has an equal position before the law (*equality before the law*), which is a fundamental principle in the Indonesian legal system. This is reflected in the guarantee of the right to get a job as stipulated in Article 27, paragraph (2) of the 1945 Constitution, which affirms that every citizen has the right to a decent job and livelihood. However, the development of the digital economy and globalization has caused competition for work to become more intense, so that some workers sometimes accept jobs with rights that are not fully fulfilled. This situation creates an imbalance between the interests of workers and employers, so legal protection is very important.

Employment relations are basically civil relationships born from agreements between workers and employers. Article 1313 of the Civil Code defines an agreement as an act in which one party binds himself to the other party, while Article 1320 stipulates the conditions for the validity of the agreement, namely the existence of an agreement, skill, certain objects, and halal causes. If one of the parties violates the agreement,

Article 1423 of the Civil Code provides a legal basis for claiming compensation. In the context of employment relations, the main elements that make up an agreement between an employee and an employer include the work performed, the existence of an order from the employer, the provision of wages, and the duration of the agreement¹⁴.

In theory, employment law is not only normative, but also reflective of the balance of interests between workers and employers¹⁵. Contract theory emphasizes that employment relationships are legally valid forms of agreements, so the rights and obligations of both parties must be fulfilled. Pancasila's industrial relations theory emphasizes the importance of deliberation and consensus to achieve social justice in labor relations, as well as prevent industrial disputes. Meanwhile, the welfare state theory emphasizes the role of the state in protecting workers through regulations and public policies to create fair and decent working conditions¹⁶.

In modern employment relations practices, Fixed-Time Work Agreements (FTWA) are a form of agreement that is often used to meet the needs of temporary labor or certain projects. Although flexible, PKWT must still comply with the provisions of the law, including Article 17 of Government Regulation No. 35 of 2021, which regulates the rights and obligations of workers upon termination of employment relationships. This article emphasizes that unilateral termination of employment by workers or employers does not abolish the obligation to provide compensation in accordance with the provisions of the law. This underscores the need for a balance between the flexibility of employment contracts and the protection of workers' rights¹⁷.

Practice in the field shows that differences in interests between employers and workers in PKWT often cause disputes, both related to wages, contract terms, and compensation rights. Therefore, dispute resolution mechanisms through bipartite, mediation, or industrial relations courts are very important to maintain the fairness and continuity of employment relations. Understanding the principles of contract law, the principles of social justice, and the state's obligation to protect workers are the foundation for the creation of harmonious and sustainable labor relations. This is especially relevant in an era of global competition and digital transformation, where workers face the challenge of obtaining decent work while maintaining their rights, while employers need flexibility to meet the demands of dynamic businesses¹⁸.

Employment Law Position. Employment law has a mixed character, which contains both private and public aspects. The private aspect can be seen from the

¹⁴ <https://peraturan.bpk.go.id/Details/161904/pp-no-35-tahun-2021>

¹⁵ <https://peraturan.bpk.go.id/Details/161904/pp-no-35-tahun-2021>

¹⁶ Work, View, and Aspect, "Vol.II/No.2/January-March/2014 Special Edition of Rumimpunu F: Indus Relations System..."

¹⁷ <https://peraturan.bpk.go.id/Details/161904/pp-no-35-tahun-2021>

¹⁸ Angga Christian, Ainun Nabilah, and Sulthoni Ajie, "The Theory of Justice According to John Rawls" 07, no. 1 (2025): 598–611.

arrangement of employment relations that originate from agreements between workers and employers, where the rights and obligations of both parties are regulated based on agreements. Meanwhile, the public aspect is reflected in the state's role in supervising the implementation of labor regulations, ensuring employer compliance, and protecting workers' rights. In this context, the government carries out various functions, including *bestuur* (government administration), *politie* (supervision and enforcement of norms), and *rechtshandhaving* (law enforcement), to ensure compliance with labor regulations¹⁹.

In addition, violations of labor provisions not only cause civil consequences, such as demands for compensation or compensation, but can also penetrate the criminal realm if the violation contains elements of certain criminal acts, such as wage embezzlement, document forgery, or worker persecution. Therefore, termination of employment (PHK) is at the intersection of civil, administrative, and criminal law, which demands comprehensive legal protection for workers as well as legal certainty for employers. This mixed character shows the complexity of employment law, where the balance between contractual flexibility, legal certainty, and social protection must be maintained simultaneously, especially in the era of globalization and digitalization of the world of work²⁰.

2. Application of Article 17 of Government Regulation No. 35 of 2021

Article 17 of Government Regulation No. 35 of 2021 emphasizes that if one of the parties terminates the employment relationship before the expiration of the Fixed-Time Work Agreement (PKWT), the employer is still obliged to provide compensation in accordance with the provisions of Article 15. This provision in principle appears to be different from the general principle of contract regulated in Article 1338 of the Civil Code, which states that the agreement is valid as a law for the parties and must be obeyed as agreed. This difference arises because Government Regulation No. 35 of 2021 is designed not only as a civil regulation, but also as an instrument for worker protection, especially for economically weaker parties²¹.

Thus, the norm regarding compensation remains in force even if the resignation is carried out by the worker himself. This has two important implications: first, it prevents employers from neglecting their responsibilities to workers' rights; Second, ensuring a balance in industrial relations between the flexibility of employment contracts and the protection of workers' rights. This approach shows the mixed

¹⁹ Rewang Rencang et al., "DYNAMICS OF THE CONCEPT OF WELFARE STATE IN INDONESIA :", 5, no. 10 (2024): 1–19.

²⁰ Dwi Maulandari, "Legal Protection in Fixed-Time Work Agreements (PKWT) Reviewed from the Guarantee of Workers' Rights (NRI Law Number 13 of 2003)", 4, no. April (2025): 167–96.

²¹ Regina Meylisa Permatasari, Holyness N Singadimedja, and Rafan Darodjat, "Legal Protection for Ex-Employees Who Have Been Terminated by Arrears of Allowances for Workers and Their Families. Allowances in this context are," no. November (2025).

character of labor law, which is private because it was born from an agreement, but at the same time is public because the state sets limits and protections for economically weak parties. Thus, the provisions of Article 17 of GR 35/2021 affirm the principle of social justice in employment relations, where legal certainty and worker protection are priorities, even when there is a unilateral termination of the employment relationship

CONCLUSION

Legal Liability of PKWT Workers Who Resign Unilaterally. Workers with PKWT status who resign unilaterally still have the right to compensation in accordance with Article 17 PP 35/2021 throughout the working period that has fulfilled the provisions, because the compensation is a normative right of the worker. Unilateral resignation does not automatically remove the right to compensation, unless there is a gross breach or a valid special agreement regarding termination before the end of the contract period. In terms of accountability, PKWT workers are not burdened with fines or compensation as long as the resignation is carried out according to procedures (notice, no direct harm is caused, and does not violate specific clauses).

Thus, workers' accountability is administrative and procedural, not punitive. The Concept of the Application of Article 17 GR 35/2021 related to the Termination of Unilateral Employment Relations. Article 17 of PP 35/2021 emphasizes that PKWT compensation is given based on the length of service, so that it functions as an instrument of employment protection. In the context of unilateral termination by workers, this article is understood as a guarantee of minimum rights, not an incentive to terminate the employment relationship. The application of this article in the field is still mixed, especially since some companies interpret compensation only for termination of employment by employers, while regulations affirm that there is no such restriction. Therefore, normatively Article 17 provides equal protection for all PKWT workers, including those who resign themselves, as long as the administrative requirements are met.

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