

CRIMINAL LAW ENFORCEMENT OF ASPECT VIOLATIONS OCCUPATIONAL HEALTH AND SAFETY

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ABSTRACT

Work safety is an effort aimed at protecting workers, maintaining the safety of others, protecting equipment, workplaces and production materials, preserving the environment and expediting the production process. Occupational health is the efforts aimed at obtaining the highest health by preventing and eradicating the diseases suffered by workers, preventing work exhaustion, and creating a healthy work environment. The health and safety of workers / laborers is a thought and effort to ensure the integrity and perfection of both the physical and spiritual workers / laborers in a company. With the safety and health of workers / laborers, the parties are expected to be able to do the work safely and comfortably in order to make production in a company even higher. A job can be said to be safe if whatever is done by the worker, all risks that may arise can be avoided. A job is said to be comfortable if the workers concerned can do it with feeling comfortable and at home, even feeling that they are not easily tired in doing their work.

Keywords: Criminal Law Enforcement, Violation, Occupational Safety and Health

Introduction

Occupational health and safety is an important element that cannot be separated in every company activity. The company in order to achieve its objectives, conduct safe and limited activities from adverse conditions of the company including workplace accidents. The company's safe activities need to be balanced with work safety and health. Management's concrete mechanisms for safety and health are carried out through the application of occupational safety and health management systems

Basically, the protection of the workforce is intended to keep the monkey from becoming more humanized. The workers get the opportunity to carry out various social duties and obligations, can develop their potential, so that in turn can improve the quality of life and therefore can live as a decent human being. To succeed in protecting the workforce, it requires some comprehensive, integrated and sustainable planning and implementation.

It is realized that in the implementation of national development, workers have a very important role and position as actors to achieve development goals. In line with this, manpower development is directed to improve the quality and contribution to development and to protect rights and interests in accordance with human dignity. The Government in the context of realizing the safety and health of the government to issue laws and regulations, among others, Law Number 1 of 1970 concerning Work Safety, Law Number 13 of 2003 concerning Manpower and Government Regulation Number 50 of 2012 concerning Application of Safety and Health Management Systems and other regulations.

The role of the workforce as business capital in carrying out development must be supported by the guarantee of the rights of every worker, the fulfillment of protection of the workforce is the responsibility of the government which is then set forth in regulations then must be carried out by every company, the government and companies must synergize so that the guarantee of safety and health for workers.

According to Article 99 of Law Number 13 Year 2003, Labor is for every worker / laborer and his / her family to have the right to obtain social security for workers. In this provision Jamsostek is a right that is not only owned by workers / laborers but also families. The granting of rights to workers is intended to provide service guarantees if there are family members of workers / laborers who experience illness or need other medical assistance such as pregnancy, and childbirth and those who get work accidents.

The provisions of this article aim to safeguard the safety of workers in carrying out their work. Work safety is an effort aimed at protecting workers to protect the safety of others, protecting equipment, workplaces and production materials, preserving the environment, and expediting the production process. Occupational health is the efforts aimed at obtaining the highest health by preventing and eradicating the diseases suffered by workers, preventing work exhaustion, and creating a healthy work environment.

The health and safety of workers / laborers is a thought and effort to ensure the integrity and perfection of both the physical and spiritual workers / laborers in a company. With the safety and health of workers / laborers, the parties are expected to be able to do the work safely and comfortably in order to make production in a company even higher. A job can be said to be safe if whatever is done by the worker, all risks that may arise can be avoided. A job is said to be comfortable if the workers concerned can do the work by feeling comfortable and at ease, even feeling that they are not easily tired in doing their work.

Scope of Occupational Safety and Health

Work safety is included in technical protection, namely the protection of workers / laborers to be safe from the dangers that can be caused by work tools or materials that are done. Work safety does not only provide protection to workers / laborers but also to employers and the government.

To realize the protection of work safety, the government has made efforts to develop norms in the field of employment. In terms of guiding this norm, it includes understanding the formation, implementation and supervision of the norm itself.

In terms of scientific knowledge, occupational health and safety are defined as science and its application in an effort to prevent the possibility of accidents and occupational diseases. Occupational safety and health must be implemented and implemented in every workplace (company). Workplace is every place in which there are three elements, namely:

- a. The existence of a business, whether it is an economic or social business,
- b. There is a source of danger
- c. There is a workforce that works in it, both continuously and only from time to time.

Law Number 1 of 1970 determines the places referred to as workplaces are places on land, in the ground, on the surface of the water, in water, or in the air in the territory of Indonesian law. Work safety goals are all workplaces, both on land in the soil on the surface of the water and in the air. Such workplaces are spread throughout all economic activities such as agriculture, industry, growth, transportation, public works, services and others. Work safety has the following characteristics: the target is the work environment and is technical in nature.

The purpose of work safety is

- a. Protect workers from the risk of accidents when they do work
- b. Keeping the people around the workplace guaranteed safety.
- c. Keeping production sources maintained and used safely and efficiently.

Work safety is related to workplace accidents, namely accidents that occur in the workplace or known as industrial accidents. This industrial accident can be interpreted as an unexpected and unwanted event that disrupts the process that has been regulated by its activities. A certain event or event is the cause of the incident as well as an industrial accident / work accident.

Scope of Occupational Health

Occupational health is part of health science that aims to get the workforce to have a perfect health condition both physically, mentally and socially, so that it can work optimally. Occupational health goals are:

- a. Improve, and maintain the highest level of health of the workforce both physically, mentally and socially
- b. Prevent and protect labor from health problems caused by working conditions.
- c. Adjust workforce with work or work with labor
- d. Increase worker productivity.

The occupational health regulations contained in Act Number 13 of 2003 include the work of children, women, work time, rest periods.

Corporate Responsibility Under Legislation

The material of Law Number 1 of 1970 is more dominant concerning the rights and obligations of workers and employers / administrators in the implementation of K3, and the obligations of employers / administrators are:

Article 3 paragraph 1: implement safety requirements for:

- a. Preventing and reducing accidents
- b. Prevent, reduce and extinguish fires
- c. Prevent and reduce the danger of blasting
- d. Providing opportunities or ways to save themselves during a fire or other dangerous events
- e. Provide help with accidents
- f. Providing personal protection equipment to workers
- g. Preventing and controlling arises or spreads temperature, humidity, dust, dirt, smoke, gas and gusts
- h. Preventing and controlling the onset of diseases caused by physical and psychological work, poisoning, infection, and transmission
- i. Obtain adequate lighting

- j. Carry out enough temperature and humidity
- k. Organizing sufficient air refresher
- l. Maintain cleanliness, health and order
- m. Obtain harmony between labor, environment, ways and processes of work
- n. Securing and expediting loading and unloading work, treatment and storage of goods
- o. Securing and maintaining all types of buildings
- p. Prevent exposure to dangerous electricity
- q. Adjusting and perfecting security at work where the danger of accidents becomes higher

Article 8

Paragraph 1: management is required to check the health of the body, mental condition and physical ability of the workforce that will be received and will be transferred in accordance with the characteristics of the work given to him.

Paragraph 2: Management is obliged to examine all workers under its leadership, periodically to the doctor appointed by the employer and justified by the director.

Article 9

Paragraph 1: Administrators are required to show and explain to each new workforce about:

- a. Conditions and hazards and which can arise in the workplace
- b. All safeguards and protective equipment are required in the workplace
- c. Personal protective equipment for the workforce concerned
- d. Safe ways and attitudes in carrying out their work.

Paragraph 2: The management can only employ the workforce concerned after he is convinced that the workforce has understood the conditions above.

Paragraph 3: Administrators are required to provide guidance for all workers under their leadership, in the prevention of accidents and fire eradication as well as improving occupational safety and health as well as in providing first aid to accidents

Paragraph 4: The management is obliged to fulfill and comply with all the terms and conditions that apply to the business and place of work carried out.

Article 10 paragraph 1: The Minister of Manpower has the authority to form a committee for the promotion of occupational safety and health in order to develop cooperation, mutual understanding and effective participation of employers or administrators and workers in workplaces to carry out joint obligations in the field of occupational safety and health in order to expedite the production business.

Article 11 paragraph 1: management is required to report any accidents that occur in the workplace that he leads to officials appointed by the Minister of Manpower.

Article 14 management is required:

1. In writing, place in the workplace that he leads all work safety requirements that are required in accordance with this law and all the implementing regulations that apply to the workplace in question in places that are seen and read and according to the instructions of supervisory or expert employees work safety.
2. Installing in the workplace that he leads all required safety images and all other coaching materials, in places that are easily seen and legible according to the instructions of the supervisory employee or occupational safety expert.
3. Providing free of charge, all required personal protection equipment for the workforce is under his / her leadership, and providing for each other person entering the workplace, accompanied by instructions as needed according to the instructions of the supervisor and occupational safety expert.

Violation of the implementing regulation of Law Number 1 Year 1970 can provide a criminal threat with a maximum imprisonment of three months or a maximum fine of one hundred thousand rupiah as stipulated in Article 15 paragraph 2 of Act Number 1 of 1970. This criminal threat will not create a deterrent effect for entrepreneurs who violate Law No. 1 of 1970 (including implementing regulations) seen from the short sentence and the fine of too little money given that there is a lot of workforce in one workplace (company) that is seriously injured even death and suffering from occupational diseases.

It is unfair if the occupational safety and health problem is only delegated to the company / employer, because work safety and health issues are also the responsibility of the worker as the object of occupational safety and health. For this reason, workers also have rights and obligations related to occupational safety and health, namely:

1. Provide information when requested by the supervisor / expert employee safety and health
2. Using personal protective equipment
3. Comply with the required health and safety requirements
4. Request the management to implement the required occupational health and safety requirements
5. State objections to work where occupational safety and health requirements and personal protective equipment do not guarantee their safety.

Labor Inspection System for the Implementation of Occupational Safety and Health.

As for the background of supervision of the implementation of occupational safety and health:

- a. Every workforce is always faced with the potential dangers of accidents and occupational diseases in accordance with the type or characteristics of the company where he works
- b. Cases of work-related accidents and diseases will have a very detrimental impact on workers, companies and society in general
- c. Cases of work-related accidents and diseases can be prevented through labor inspection in the field of occupational safety and health in general and occupational health in particular, especially employment is an important element in the protection of labor, as well as labor law enforcement efforts as a whole. Law enforcement is carried out in two ways, namely preventive and repressive. Basically the two methods are taken very much depending on the level of community compliance (Employers, workers, trade unions) on the provisions of labor law. Preventive action is taken if possible and there is still public awareness to obey the law. But if preventive measures are no longer effective, repressive measures will be taken with the intention that the public will implement the law even with compulsion.

Labor inspection is carried out to guarantee the implementation of labor regulations (Article 176 of Law Number 13 of 2003). Thus the objective of labor inspection is to eliminate or minimize the violation of labor laws so that the industrial relations process can run smoothly and harmoniously. Those who are in charge of supervising the compliance with the laws and regulations in the field of occupational safety and health are:

1. Employees of occupational safety and health supervision are special skilled technical employees of the Ministry of Labor appointed by the Minister of Labor.
2. Occupational safety and health experts, namely special skilled technical personnel from outside the workforce department appointed by the minister of labor.

The Directorate of supervision of occupational safety and health norms is the organizational unit for the supervision of occupational health and safety in accordance with the provisions of Article 10 of Act Number 14 of 1969 and Article 5 paragraph (a) of Act Number 1 of 1970. Operationally carried out by labor inspectors which functions for:

1. Supervise and provide information on the implementation of legal provisions concerning occupational safety and health.
2. Provide technical information and advice to employers and workers on matters that can guarantee the effective implementation of existing regulations.

In carrying out their duties, supervisory employees have the right and are obliged to do:

1. Entering all the places where it is carried out or usually carried out by work or can be assumed that there is a job carried out and also any house disbursed or used by the employer or its representative for housing or worker care
2. If there is a refusal to enter these places the supervisory officer has the right to request assistance from the National Police
3. Obtain information as clearly as possible from the employer or his deputy and workers regarding the condition of the employment relationship in the company concerned
4. Asking workers without being attended by a third party
5. Must coordinate with trade unions
6. Must keep all information obtained from the examination confidential
7. Required to investigate violations.

Article 181 of Law Number 13 of 2003 affirms that the supervisor must first, keep everything that is conceivable confidential. Second, do not abuse their authority

The person who has the right to do an occupational health examination is a doctor appointed by the head of the company / work place and who is approved by the labor department. The implementation of occupational health supervision is addressed to:

1. Workplace namely
 - a. Cleanliness and maintenance
 - b. Working environment conditions
2. The work process that needs to be examined how the work process starts from the warehouse of raw materials, preparation of packing processing until distribution.
3. Labor / workers, which is what needs to be considered:
 - a. Personal protective equipment
 - b. Work attitude
 - c. Gender
 - d. Age
 - e. Workload
 - f. Workforce nutrition
4. Occupational health services
5. Health facilities

These health rules are compelling. And the company is generally obliged to carry out occupational health rules, and is responsible for their implementation. Even so, the company is still given the opportunity to hold storage in this occupational health rule for example:

1. The company can make irregularities in terms of work time. Prohibition of doing work more than 7 hours a day and more than 40 hours a week can be set aside if it is related to the development of the country
2. The company can set aside the rules for rest periods and the provisions of holidays and the prohibition of working more than 7 hours a day, 40 hours a week if there are jobs that must be completed immediately.

To make this deviation the company must obtain prior permission from labor inspection. This permit is called preventive supervision. Repressive supervision is carried out by employees of labor inspection by visiting workplaces at certain times. By visiting workplaces, supervisory employees have tasks:

1. Seeing by examining and investigating for yourself the provisions of the laws and regulations are carried out by the company and if not the supervisory employee can take reasonable action to guarantee the implementation.
2. Assist both workers and employers or company leaders by providing technical explanations or advice they need so they understand what and how the laws and regulations are implemented.
3. Investigate labor conditions and collect data needed to compile labor laws and determine government policies.

Labor inspection of the implementation of occupational safety and health will not be effective if it is not accompanied by sanctions for violators. The Manpower Act does not regulate criminal provisions regarding violations of the implementation of occupational safety and health. But there is a provision for administrative sanctions:

Reprimand

- b. Written warning
- c. Limitation of business activities
- d. Suspension of business
- e. Cancellation of approval
- f. Registration cancellation
- g. Temporary suspension of some or all production equipment
- h. Revocation of permission

The provision of sanctions imposed on violations of the implementation of occupational safety and health is not only regulated in the labor law but also regulated in the work safety law in **Article 15** paragraph (2): "the legislation referred to in paragraph (1) may provide criminal sanctions for violation of the rules with a maximum imprisonment of three months or a fine as high as one hundred thousand rupiahs".

Conclusion

1. Protection of occupational safety and health according to Law Number 13 of 2003 is a right for workers to be protected in an effort to realize optimal work productivity. This right is regulated in the form of obligations for employers through an occupational safety and health management system that is integrated with the company's management system.

2. Legal arrangements for the protection of labor related to occupational safety and health are one important element in employment. Therefore, there are so many various laws and regulations that are made to regulate occupational health and safety issues. There are also many companies that do not meet occupational safety and health standards so that there are many work accidents. Therefore, it is necessary to improve the occupational health and safety management system which in this case certainly involves a role for all parties. Not only for the workers, but also the entrepreneurs themselves, the community and the environment so that they can achieve an improvement in the quality of life and national productivity.

3. Law enforcement on occupational safety and health aspects can provide criminal threats with a maximum imprisonment of three months or a maximum fine of one hundred thousand rupiahs as stipulated in Article 15 paragraph 2 of Act Number 1 of 1970. This criminal threat will not be create a deterrent effect for entrepreneurs who violate Law No. 1 of 1970 including the implementing regulations seen from the short sentence of imprisonment and fines of too little money given that there are many workers in one workplace (company) who suffered serious injuries and even death. suffering from occupational diseases.

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