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## INDONESIA: IMPLEMENTATION OF THE NATIONAL SOCIAL SECURITY SYSTEM LAW

ILO Subregional Office for South East Asia



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## **1. National Social Security System (SJSN) Law (Law No. 40 of 2004)**

In 2004, there was a major legislative achievement in the development of national social security system in Indonesia. In 2002, a Task Force was created under Presidential Decree No. 29 of 2002 to prepare draft legislation and a supporting academic paper for a national social security system to provide more effective social security to all. Over three years' discussion, the Task Force developed a draft bill and submitted it to the Parliament (DPR) in early 2004. On 28 October 2004, the Parliament approved the bill after having made a number of revisions during the Parliament discussion.

The law provides a basic framework for the development of the social security and social assistance and the detailed rules will be specified in the subsequent Presidential Regulations. Key features of this law are summarised as follows:

- The law stipulates the principles and goals of the National Social Security System. For the implementation of the National Social Security System, the law stipulates the establishment of a National Social Security Council under the President. The Council will be composed of 15 members representing the Government, social security experts and employers' and workers' organisations and its main function is to formulate the policies and provide supervision for the implementation of the National Social Security System.
- The law anticipates the achievement of the universal coverage in a phased manner. The law only states that it is mandatory for employers to enrol their employees to the social security schemes and that the Government will provide social assistance to the poor. The explanation notes to the law states that "Although membership is mandatory for all citizens, its implementation will take place in accordance with the economic capacity of the people and the Government as well as the feasibility of the programme. The first stage will start with workers in the formal sector, in parallel with voluntary membership of the informal sector workers, including farmers, fishermen and the self-employed."
- The existing four social security schemes (Jamsostek, Taspen, Asabri and Askes) will continue to operate as social security carriers but the legal status of these schemes will be changed from Persero (profit-oriented limited liability state enterprise) to a not-for-profit, social security fund within 5 years transition period i.e. by 2009. Additional social security carriers can be created as needed. The law requires that the financial accounts of different benefit programmes should be managed separately and prohibits the inter-programme fund transfer.
- The scope of the law covers five social security programmes, namely: (i) health insurance, (ii) employment injury, (iii) old-age (provident fund), (iv) pensions, and (v) death benefits. Furthermore, the law states that the government will develop the social assistance for the poor and economically disabled, but its details are entrusted to the Presidential Regulations that follow.
- With respect to financing, the law only stipulates that the contributions for the social security programmes should be paid jointly by the employers and employees but does not specify the contribution rates or how contributions are shared between employers and workers. The Government will subsidise the

contributions concerning the social assistance for the poor and the economically disabled. In the first phase, the Government provides health insurance for the poor and alike (the government allocated Rp. 3.9 trillion for 2005).

## **2. Issues in the implementation of the SJSN Law**

The SJSN Law provides only a framework of the ultimate national social security system in Indonesia (That is why this law is called an “umbrella law”). It does not mention the transition measures from the existing segmented schemes to the ultimate system. A number of substantial issues still remain to be worked out in the future. There is a vital need to address the following issues:

- (a) There needs to be a mid-term implementation plan (Road map) defining the process of implementing the SJSN Law in stages. The Road map should clarify the organisational structure of the SJSN and its impact on the existing social security schemes. In line with the road map, strategic action plans should be developed that describe the goals to be achieved for each stage of implementation. It is critical that the road map and action plans should be based on high degree of consensus and commitment at all levels of administration. The National Social Security Council should monitor and evaluate the implementation of the SJSN Act in line with the road map and action plans.
- (b) Detailed provisions of the social security programmes need to be determined in the Presidential Regulations. This will involve the development of policy options for the benefit design (including the determination of the benefit parameters, and the adjustment of the possible duplication of old-age benefits and pensions benefits), determination of the contribution rates based on actuarial projections, financing mechanism (including the determination of the adequate reserve level and investment guidelines), and organisational arrangements.
- (c) The administrative capacity for the existing social security organisations should be strengthened to improve the compliance of the workers in the formal employment sector and to prepare for the expansion of the workers in the informal economy.

## **3. Towards the implementation of the SJSN Law**

As of October 2007, the National Social Security Council has not been established yet. Reportedly, only the Chairman of the Council (Deputy of Coordinating Ministry of Social Welfare - MENKOKESRA) has been appointed by the President, but the other Council members (15 members from tripartite stakeholders and social security experts) have not been appointed. However, preparatory works on social security and social assistance issues are going on in relevant Ministries.

There was a case at Constitutional Court on the interpretation of state monopoly of social security benefits in Article 5 of SJSN Law. From several sources, the court decision was that local government can establish organisations that provide social security benefits but that the article SJSN act in question remains unchanged.

Although there is a general recognition that the SJSN Law is a first major step to develop a comprehensive national social security system in Indonesia, so far it has failed to give meaningful impact except for health insurance cover for the poor. The significant delay in the action to implement the Law has revealed seeming lack of coordination and real commitment. It is hoped that the Government will develop the Road map as a priority matter so that the implementation of the national social security system can be envisaged at the earliest stage.

#### Reference

ILO, *Social Security in Indonesia : Advancing the Development Agenda*, 2008