



# Controversy of Paying Old Age Benefits in Social Guarantee Systems: Public Policy Perspective

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**Abstract.** The issuance of the Minister of Manpower Regulation (Permenaker) Number 2 of 2022 has sparked controversy, especially among workers. The Ministerial Regulation governs the method and standards for the provision of old age protections to employees, especially for employees who stop working due to termination of employment which are considered unfair by workers. The substance regulated in the Permenaker is a public policy, because it relates to the public interest, in the form of workers' expectations to get cash from the program. This study aims to examine the controversy from a public policy perspective. The Permenaker Number 2 of 2022 as a replacement for the Permenaker Number 19 of 2015 is stipulated based on Government Regulation No. 46 of 2015 Implementing the Old Age Security Scheme and Law No. 40 of 2004 Implementing the National Social Security System. The four state/government regulations are determined by state/government officials as policy actors. It also shows the existence of policy issues, policy objectives, policy legality, policy hierarchies, and policy systems. There are inconsistent and systematic arrangements regarding workers who stop working due to resignations and layoffs. The requirements of Article 3 of The Permenaker Number 2 of 2022 addressing the age of 56 years are compatible with the terms of Article 22 paragraph (1) and Article 26 paragraph (3) of Government Regulation Number 46 of 2004. The provisions of Article 3 paragraph (1) of The Permenaker Number 19 of 2015 are inconsistent with the two articles/paragraphs in the government regulation. It is necessary to improve the arrangement of workers who resign and are affected by termination of employment.

**Keywords:** policy · public policy · old age insurance · social security

## 1 Preliminary

Employee welfare guarantees are important as part of the state's efforts to provide welfare to the Indonesian people. Old age insurance is one type of program in the National Social Security System, which is technically operationally determined by the Minister of Manpower.

The issuance of the Minister of Manpower Regulation Number 32 of 2020 which stipulates that the payment of old-age benefits for employees affected by termination of employment at the age of 56 has caused controversy and rejection from among workers.

From a public policy perspective, this is a substantial factor that is interesting to study, not only because it relates to the public interest as the essence of public policy. But there is also an academic need to examine the substance of the Ministerial Regulation as a product of public policy.

The research aims to examine the Ministerial Regulation from various dimensions of public policy.

## **2 Research Method**

This research employs a blend of normative legal procedures, library research, and secondary data analysis. The focus of the researchers' attention is directed at various laws and regulations relating to old age insurance, as well as other literatures on the subject in the field of literature, papers, records, and other scientific publications.

The laws that are the focus of the research are Law Number 40 of 2004, Regulation by the Government Number 46 of 2015, Government Regulation Number 60 of 2015, Regulation of the Minister of Manpower Number 2 of 2002.

Data analysis in the form of government regulations is carried out by analyzing the substance of the policies in the various state/government regulations, in relation to various aspects of public policy.

## **3 Result and Discussion**

### **3.1 Profile, Hierarchy and Context of Old Age Policy/Program**

The regulation surrounding old age insurance is mentioned in state/government regulations at many levels, as stated by Anderson that public policy is in its positive form based on legislation and is authoritative, and Gerston that the tiers of government that handle concerns. Law No. 40 of 2004, PP No. 46 of 2015, PP No. 60 of 2015 and the official laws of public policy are covered in Permenaker No. 2 of 2022. This is in keeping with Stillman II's assertion that one of public administration's identities is anchored in the law and concerned with enforcing laws. Furthermore, because of the content of the law, which pertains to the interest of the public in the form of worker-provided old-age insurance.

Adopting Bromley's view [1], Government Involvement Number 46 of 2015 and Government Involvement Number 60, which are at the organisational level, expound on Law Number 40 of 2004 at the policy level. Permenaker Number 2 of 2022, which is at the administrative level, elaborates on this further.

From the standpoint of the public policy hierarchy, the enactment of Law No. 40 of 2004 is a national template for old-age insurance plans or programmes determined by state administrators and binding on all stakeholder. Furthermore, it is consistent with Gerston's assertions about the degree of government [2], as well as the notion of hierarchy, which is governed by Article 7 paragraph (2) of Law No. 12 of 2011 on Legislation Establishment. The argument is that each form of law is graded according to the premise that lower regulations and laws must not clash with higher regulations and laws.

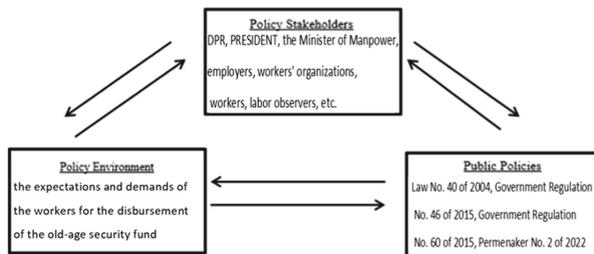
Based on the stipulations of two papers in Law No. 40 of 2004, the stipulation of PP No. 46 of 2015 is mandatory. The fact that any of these government policies have been replaced or changed demonstrates the connection among government entities and their surroundings. This is in keeping with Robert Eyestone’s assertion that policy making is a government unit’s relationship to its surroundings [3].

This agrees with Dunn’s assessment of The Policy System. A Policy System, or the broad institutional structure within which policies are formed, is made up of three components: make it public, policy users, and policy environments, all of which are interrelated. (1981:47). The publication of Law No. 40 of 2004 as well as a slew of other labour legislation, Government Regulation No. 46 of 2015, Government Regulation No. 60 of 2015, and Permenaker No. 2 of 2022, are unmistakably a kind of government policy. This is a reaction to the policy environment, which includes circumstances for employees’ rising expectations and demands, including through various workers’ organizations regarding old age insurance. The policy environment, on the other hand, will be influenced by the introduction of numerous state and federal rules.

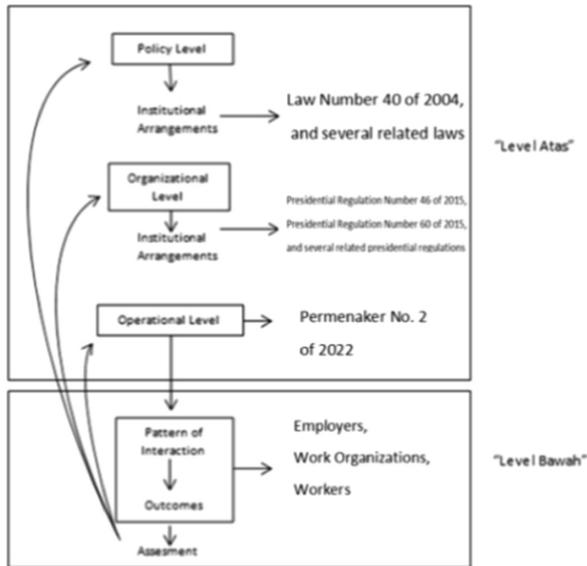
Schematically, this can be seen in the Fig. 1.

Bromley’s viewpoints are referenced and adapted. [1], At the policy level, there is Law Number 40 of 2004, many associated laws as policies, and at the organisational level, there is Government Involvement Number 46 of 2015 and Government Involvement Number 60 of 2015, while Permenaker Number 2 of 2022 is at the operational level. Implementatively, All of these policy outcomes result in patterns of interaction at the policy implementation level, as well as with the general public or members of this community as policy targets.

Of course, the public and many other participants in the old-age insurance programme will respond to the government in a variety of ways. One of these contributions is about the difficulties and troubles encountered when making the old-age security payment. In connection with the controversy over the old-age insurance program which was published through the Minister of Manpower Regulation Number 2 of 2022, As a foundation for refining future policies, an objective review of the implementation elements, involving input from the program’s stakeholders, is critical. Another component that must be considered is the examination of the policy’s substance, because a solid policy provides the foundation for efficient functioning of the old-age insurance program.



**Fig. 1.** Regulation of the Old Age Security Program in the Government Policies. Source: Adapted from Dunn [4]



**Fig. 2.** Hierarchy of the Old Age Security Program. Source: Adapted from Bromley [1]

Schematically, the hierarchy and process of this old age insurance program can be visualized as seen in Fig. 2.

### 3.2 Substance of Old Age Security Policy

The substance of setting the objectives of the policy or old-age insurance program is stated in a number of state/federal regulations. The goal of the old-age insurance programme, so according to Article 35 paragraph (2) of Law Number 40 of 2004, is to ensure that members get cash if they retire, become permanently disabled, or die. This program is one of five other types of Article 18 of the legislation regulates social security programmes.

The presence of agreements about this purpose is highly suitable and significant from a public policy standpoint. This supports Anderson’s assertion that one of the principles of public policy is purposeful or goal-oriented behaviour rather than random or chance behavior [3]. Philosophically, the purpose of this program can be seen from the consideration of letter a of this law, specifically, everybody has the right to be secure in order to meet the fundamental demands of a decent existence and to improve his or her dignity in the pursuit of a wealthy, just, and prosperous Indonesian society.

There are several characteristics of policy substance in these state/government regulations, namely:

As the juridical basis for this program, Old-age payments in the form of cash are provided at once when the person reaches retirement age, dies, or suffers a permanent complete disability, according to Article 37 paragraph (1) of Law Number 40 of 2004. In other words, the provisions of this law do not regulate at all the mechanism for the payment of these benefits for workers who resign or are terminated.

Article 22 paragraph (1) of PP Number 46 of 2015 states that the old-age security benefit is in the form of cash to be paid if the participant is 56 (fifty-six) years old, dies, or experiences permanent total disability. This clause runs counter to Article 1 point 1, which states that old-age security is a lump-sum payment made when a person reaches retirement age, dies, or suffers a permanent complete disability. It also contradicts the rules of Article 26 paragraph (1).

Regarding this controversy, program members who are terminated or quit working before age of retirement are entitled to benefits when they reach the age of 56 years old, according to Article 26 paragraph (3). In other words, the substance of the provisions of Article 3 of the Minister of Manpower Number 2 of 2022 does not conflict with the provisions of Article 26 paragraph (3) of PP Number 46 of 2015. The problem is that the PP was later amended on August 12, 2015 by Government Regulation No. 60 of 2015.

The issuance of PP Number 60 of 2015 as an amendment to Government Regulation Number 46 of 2015, Article 26 paragraph (1), in instance, provides that if a participant reaches retirement age, he or she must be awarded old-age payments, the participant experiences permanent total disability; or the participant dies. Participants who achieve retirement age are provided with old-age benefits, according to Article 26 paragraph (2). In other words, the substance of the provisions of Article 26 paragraph (3) It stipulates that programme members who are terminated or stop working before age of retirement get benefits when they reach the age of 56, is no longer valid.

In other words, PP Number 60 of 2015 does not further regulate the payment of old-age benefits for employees who stop working/resign or are terminated. However, PP Number 60 of 2015 provides attributive authority to regulate more technical procedures and requirements for paying old-age security to the Minister of Manpower as stipulated in Article I of the PP.

In the preamble to letter a of PP Number 60 of 2015 it is stated that taking into account the national labor conditions and aspirations that develop in the community, it is necessary to regulate changes in the provision of old-age benefits for participants who stop working. However, the substance of the change is not directly related to the regulation of the payment of old-age benefits for employees who stop working due to resignation and/or termination of employment. The provisions of Article I PP No. 60 of 2015 which delegates the authority to further regulate the procedures and requirements for sharing benefits to the Minister of Manpower in the form of a Ministerial Regulation, it seems that the PP maker wants to “throw the responsibility” on handling this problem.

Article 5 paragraph (1) of the Minister of Manpower Regulation Number 19 of 2015, based on the legality of the policy, it is appropriate. This is because the provisions of Article 26 paragraph (3) of PP Number 46 of 2015, which state that programme participants who are terminated or stop working before retirement age receive benefits when they reach the age of 56, are no longer valid due to the provisions of Article I of PP Number 60 of 2015.

## 4 Conclusions

The space for dialogue must be opened as wide as possible for the democratization of the public policy process. It is necessary to go back to Permenaker Number 19 of 2015

as the basis for implementing operational technical policies. Implement Permanaker Number 15 of 2021, as a means of reducing the social impact of termination of employment. Beside it, in the long term, accommodation arrangements regarding quitting work (resignation and layoffs) are through the revision of Law No. 40/2004.

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