

Draft Government Regulation on Liquidated Damages (Dwangsom) and Administrative Sanctions

The Draft Government Regulation on Liquidated Damages (*Dwangsom*) and Administrative Sanctions were written by Bambang Heriyanto, the current Deputy Chief Judge of the State Administrative Court in Jakarta. The Regulation is short, comprising of a mere ten articles. The regulatory framework for the Draft is Article 116(4) of Law No. 9 of 2004 which amends Law No. 5 of 1986 on the State Administrative Courts.


Liquidated damages in this case is a payment that is to be made where the party does not execute or comply with the conditions of the decision once the decision has obtained full binding force. Any potential claim for liquidated damages should be included in the original petition. In the event that the original petition does not include a claim for liquidated damages, then the presiding judge is to suggest to the claimant that they include a clause relating to liquidated damages. This will then enable the judges to specifically stipulate in the decision what liquidated damages are to apply in cases of non-compliance.

Liquidated damages are only an option in four specific circumstances, namely:

1. Cancellation of a State Administrative Court Decision;
2. Issuing a new State Administrative Court Decision;
3. Cancellation and reissue of a State Administrative Court Decision; and
4. Rehabilitation in employee disputes.

The liquidated damages will not become due and payable until three months have elapsed since the decision became final and binding. The three-month clock will start ticking once the relevant parties have received a copy of the decision in the relevant matter. The court is required to send a copy of the decision to the parties within 14 days of the decision being handed down. This notification is to be delivered by registered post.

The provisions as they relate to administrative sanctions are similar to those discussed for liquidated damages.

The Draft is currently with the government and undergoing a period of further discussion. 

⚙ Past Issues

- Article 25 Income Tax Reductions for 2009 (Issue 1035 - 18/02/2009)
- State Debt Securities Sold Through Private Placement on the Domestic Primary Market (Issue 1034 - 17/02/2009)
- Minimum Sectoral Provincial Wage 2009 - Jakarta (Issue 1033 - 16/02/2009)
- Utilizing Domestic Products in the Procurement of Goods and Services (Issue 1032 - 16/02/2009)

⚙ Documents

The Draft Government Regulation on Dwangsom (PP_DWANGSOM_FEB_2009.pdf - 26.Kb)

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