

Guidelines for the ILO wage subsidy programme in the garment sector in Indonesia

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1. Introduction

As part of emergency assistance to the garment sector in Indonesia during the COVID-19 crisis, the ILO-BMZ wage subsidy programme aims at encouraging employers to maintain employment by subsidising part of leave compensations that employers pay employees during furloughs. According to the Labour Law Number 13 of 2003, employers have to pay full wages to employees who are willing to work but required not to work by employers (Article 93 (2) f). Part of which expenditures, the programme will reimburse to employers who meet all the requirements specified in this document.

2. Eligibility

The programme is designed to subsidise part of the wage already paid by employers during furloughs that follow the arrangements agreed between employees and employers. The following subsections present employers, employees and furloughs that the programme covers.

2.1. Employer

Employers who would like to apply for the subsidy programme have to:

- a. Be a member of the Better Work Indonesia (BWI) as of 1 January 2021;
- b. Plan to execute furlough due to economic downturns during the COVID-19 crisis based on a collective agreement between employees and employers, and commit to maintain employment over the defined period for the programme;
- c. Agree to submit to the ILO necessary documents and data for validation and accept the ILO's investigation at workplaces whenever the ILO finds them necessary; and
- d. Remain solvent until the decision for the subsidy is made by the ILO. If an enterprise goes on bankruptcy before the decision for the payment of subsidies is made, the enterprise will not receive a payment from the ILO.

2.2. Employee

Employers can claim for furloughed employees that:

- a. Are employed on 1 February 2021 or before and still in employment relationship until the end of payroll cycle; and
- b. Have any types of employment contracts.

However, employers cannot claim for employees that:

- c. Are not willing to work;
- d. Are not capable to work; or

- e. Are exercising employee's rights including annual, sick, maternity or other paid leaves.

EXPLANATORY NOTES

The programme has a specific objective to support employers who comply with their obligations and pay adequate compensations to employees put on furlough. With this principle, the programme does not deal with the following cases.

(1) Employees who are not willing to work

According to the Labour Law Number 13 of 2003, employers are not obliged to pay wage to workers who are not willing to perform work (Article 93 (1)). Thus, the programme will not provide subsidies for such payments.

(2) Employees who are not capable to work

Employers are obliged to pay sickness benefits for employees who are not capable to work because of work injuries or occupational illness (Article 92 (3)). The subsidy programme does not aim at subsidising sickness benefits.

(3) Employees who are exercising employee's rights

The Labour Law Number 13 of 2003 requires employers for the full payment of wage during annual (Article 79 (2)), sick (Article 92 (3)) and maternity leaves (Article 82). Because the programme does not aim at subsidising these benefits, employers cannot request the programme to reimburse related expenditures.

2.3. Furlough

Employers can apply for the subsidy programme when furloughs:

- a. Are one working day or longer;
- b. Are executed on statutory working days that employees are supposed to work by contract (i.e. the subsidy cannot be provided for public holidays or any other non-working days);
- c. Are executed based on a collective agreement; and
- d. Are compensated at least IDR 30,000 per working day for basic wage and fixed allowance by employers.

EXPLANATORY NOTES

(1) Furloughs applied for less than one working day

The programme does not consider furlough less than one working day. For example, where an employer put an employee on furlough for half day and pays half a daily wage for the morning and a leave compensation for the afternoon, an employer cannot claim subsidies for the day.

(2) Employers cannot claim subsidies for payments made on working days

If an employer put an employee on furlough on Tuesday and Thursday, the employer would pay the employee a full amount of wage for Monday, Wednesday and Friday. To apply for the subsidy, the employer would have to pay the employee IDR 30,000 or more for Tuesday and Thursday. In this case, the employer would receive IDR 30,000 in total from the subsidy programme. Employers cannot claim subsidies for payments made on Monday, Wednesday and Friday.

	Mon	Tue	Wed	Thu	Fri
Working day	Working	Furlough	Working	Furlough	Working
Wage	Full wage	IDR 30,000 +	Full wage	IDR 30,000 +	Full wage
Subsidy	No	IDR 15,000	No	IDR 15,000	No

(3) Employers cannot claim subsidies for non-working days

If an enterprise defines business days between Monday and Friday, an employer cannot claim subsidies for Saturday and Sunday. Similarly, an employer cannot claim subsidies for any other non-working days such as corporate or public holidays. If an employer puts an employee on furlough on Friday and defines Saturday and Sunday as weekend, the employer has to pay the employee full wages on Thursday and Monday. If the employer pays the employee at least IDR 30,000 for Friday, the employer can claim a subsidy for IDR 30,000 and have IDR 15,000 reimbursed.

	Thu	Fri	Sat	Sun	Mon
Working day	Working	Furlough	Weekend	Weekend	Working
Wage	Full wage	IDR 30,000 +	No	No	Full wage
Subsidy	No	IDR 15,000	No	No	No

(4) Component of leave compensations

As a basis for calculating leave compensations, the programme can consider wage components regularly paid every month including both basic wage and fixed allowance, as referred to the Labour Law Article 94, in order to validate whether or not an employer pays an employee at least IDR 30,000 per working day. This means that employers cannot include any other irregular payments such as religious bonus (THR) or other seasonal bonus.

3. Amount

Employers can claim for wage payments only for the furlough period. The subsidy amount will be defined by IDR 15,000 per worker multiplied by the number of furloughed days.

EXPLANATORY NOTES

(1) Paying an furloughed employee the minimum leave compensation

If an employer furloughs an employee for 25 working days in a payroll cycle and pays the employee IDR 750,000 (IDR 30,000 per working day), the employer can claim IDR 750,000 and receive a subsidy amount of IDR 375,000.

Similarly, if an employer furloughs an employee for 5 working days in a payroll cycle and pays the employee IDR 150,000 (IDR 30,000 per working day) for the furlough period, the employer can claim IDR 150,000 and receive IDR 75,000.

(2) Paying an furloughed employee above the minimum leave compensation

If an employer furloughs an employee for 5 days in a payroll cycle and pays the employee IDR 200,000 (IDR 40,000 per day) for the furlough period, the employer can claim IDR 200,000 but only receive IDR 75,000.

4. Claim

4.1. Initial claim

This is a temporary programme in place. An employer can claim one monthly payroll cycle between 1 February 2021 and 31 March 2021. Employers will have to submit an application for the wage subsidy programme to the ILO within 14 days after the usual payday of enterprise.

EXPLANATORY NOTES

For example, if an enterprise defined a payroll cycle between February 16 and March 15 and a payday on March 31, the employer can claim the paid amount of leave compensation for furlough only between February 16 and March 15. The employer will have to submit an application to the ILO by April 14.

4.2. Subsequent claims

The wage subsidy programme does not allow employers to claim more than one time.

5. Procedure

The wage subsidy programme will be operated in the following process.

- a. The ILO make an announcement about the programme on 11 January 2020.
- b. The employer informs employees that the employer will apply for the wage subsidy programme.
- c. The employer and employees sign a collective agreement. Collective agreements signed in the past can be used but should be valid for the entire period of furlough that employers are claiming the subsidy fund.
- d. An employer submits expression of interests and a copy of the collective agreement to the ILO by 25 January 2020.
- e. The employer puts employees on furlough.
- f. The employer makes a wage payment including leave compensation for the furloughed periods at a payday on a regular payroll cycle.
- g. The employer submits an application form and supporting documents to the ILO within 14 days after the usual payday of enterprise or no later than 14 April 2021 (whichever date comes first).
- h. The ILO will investigate and validate provided information on the application against qualifying conditions. As part of the validation process, the ILO will contact worker's representatives of each enterprise to ensure that employers comply with collective agreements and information submitted is true.
- i. The ILO will approve the application and make a bank transfer to the employer.

6. Application

6.1. Expression of interests

Employers have to submit an expression of interests to the ILO using a specified format by the ILO (See Section 5).

EXPLANATORY NOTES

In principle, the amount of leave compensation for furloughed employees per day should be specified on collective agreements that employers submit to the ILO-BWI. If collective agreements define formula for calculating only monthly rate but not explicitly for daily rate, employers should calculate leave compensations for furloughed employees per day using the following formula:

$$\frac{\text{Monthly wage}}{\text{The number of calendar days in a payroll cycle}} \times \text{Replacement rate} \\ = \text{Leave compensation for furloughed employee per day}$$

For example, where a collective agreement defines a replacement rate of 30 per cent of monthly wage but does not specify a daily rate or formula for calculating a daily rate, an employer claims a subsidy for a payroll cycle between 1 and 31 March 2021 (31 calendar days), a leave compensation for furloughed employee per day should be calculated as follows.

$$\frac{\text{Monthly wage}}{31} \times 0.3 = \text{Leave compensation for furloughed employee per day}$$

6.3. Claim

Employers have to submit:

- a. An application form for the wage subsidy programme and its annex;
- b. A copy of collective agreement;
- c. A list of contacts of all employee's representatives who signed on a collective agreement;
- d. Evidence on a collective agreement validated by the Local Manpower Office;
- e. Evidence on the payments to furloughed employees; and
- f. Other supporting documents if necessary or required.

7. Grievance and investigation

Employees can play a vital role by reporting fraudulent claims to the ILO. Fraudulent claims risks the provision of the wage subsidy programme and the protection of employees. If employees are concerned that their employers are abusing the programme, they should report to the ILO. This could include employers claiming for the subsidy and not paying employees what they are entitled to according to the collective agreement, being asked to work while on furlough, or making a backdated claim that includes times when employees were working.

The ILO reserves the rights of investigation. Whenever the ILO suspects or receives grievance about fraudulent claims, the ILO will ensure that employers make a payment to employees correctly according to the collective agreement before approving the application.

8. Fraud and penalty

The ILO discloses the name of employer when an employer commits a fraud to receive the subsidy, and impose several measures in place in order to minimise risks of abuse. If the ILO finds a fraud case seriously abusing the programme, it may take a legal action.

9. Research

The ILO contributes to improving or developing social protection and employment policies. For the sake of policy research, the ILO may contact employers and employees that participated in the subsidy programme.

10. Source of funding

This programme is funded by the German Federal Ministry for Economic Cooperation and Development (BMZ) through the ILO-Germany Programme to Protect Garment Workers Affected by COVID-19.