Multidisciplinary Output Research For Actual and International Issue (MORFAI Journal) ISSN (e): 2808-6635
Volume 6 No. 6 (2026)

# NORMATIVE ANALYSIS OF THE MINISTER OF MANPOWER REGULATION NUMBER 7 OF 2026 CONCERNING OUTSOURCING WORK FROM THE PERSPECTIVE OF LEGAL CERTAINTY OF CONTRACTS

**Kospiyandi[1], Siti Nurhayati[2*], Fitri Rafianti[3]**
Magister Ilmu Hukum, Universitas Pembangunan Panca Budi, Medan
E-mail: kospiyandi04@gmail.com[1], sitinurhayati@dosen.pancabudi.ac.id[2*], fitrirafianti@dosen.pancabudi.ac.id[3]

**Received:**05/09/2026 | **Revised** : 12/09/2026 | **Accepted:** 30/09/2026 | **Published** 28/10/2026

**Abstract**

This article examines, from a normative standpoint, how the 2026 Manpower Ministerial Regulation No. 7 on outsourced work, issued in response to Constitutional Court ruling 168/PUU-XXI/2023, affecting certainty in contractual relations. The regulation reshapes outsourcing in three ways: only six kinds of support activities may now be contracted out, worker-protection clauses become mandatory, and every outsourcing agreement must be registered with the labor office. Using doctrinal legal research that combines statutory and conceptual analysis, the study finds that the regulation cuts both ways. For employees, it strengthens substantive certainty because their statutory entitlements are secured in writing and the room for exploitation narrows. For businesses, however, the narrow list of permitted work and the two-year adjustment window can unsettle long-term service agreements already in force between user firms and outsourcing providers. Aligning termination clauses with clauses that carry worker protection over to a new provider (the TUPE element) is therefore essential to keep industrial disputes in check.

**Keywords:** Employment Contract, Legal Certainty, Minister of Manpower Regulation No. 7 of 2026, Outsourcing

## INTRODUCTION

Employment regulations in Indonesia continue to seek a balance between the need for labor market flexibility and job security. Among these issues, outsourcing practices are among the most frequently debated, both from a legal and sociological perspective (Nurhayati et al., 2021, p. 53). The direction of outsourcing policy shifted again after the Job Creation Regulation in Lieu of Law (Perpu Cipta Kerja) was ratified by the House of Representatives (DPR) as Law 6/2023 and subsequently challenged by the Constitutional Court. In case 168/PUU-XXI/2023, the Constitutional Court required clear boundaries for outsourcing to prevent further erosion of workers' rights (Constitutional Court Decision No. 168/PUU-XXI/2023).

In response to the ruling and under the Job Creation Law, the Minister of Manpower issued Ministerial Regulation No. 7 of 2026 (hereinafter referred to as Permenaker 7/2026) on April 30, 2026. The previously relatively loose outsourcing regime has now become a strict regime. Work that may be outsourced includes only six supporting fields (non-core business), workers' normative rights must be stated in writing, and violations are subject to tiered administrative sanctions (Permenaker No. 7 of 2026, Article 3).

From a civil and administrative law perspective, these sudden restrictions bring together two conflicting interests. The state bears the obligation to protect workers and provide them with social security. However, these same restrictions also impinge on the parties' freedom of contract, as stipulated in Article 1338 of the Civil Code, and on the certainty of employment for employers already bound by long-term business contracts (Subekti, 2014, p. 17).

Based on the description above, this study normatively examines the influence of Permenaker 7/2026 on the legal certainty of contracts, both in inter-company agreements [Business to Business (B2B)] and in employment agreements [Business to Consumer (B2C)]. The problems to be answered are formulated as follows:

1. To what extent are the limitations and requirements for outsourcing contracts in Ministerial Regulation 7/2026 in line with the norms above, both the relevant PP and the Job Creation Law/Employment Law?
2. Does Minister of Manpower Regulation 7/2026 provide legal certainty regarding contracts for both employers and outsourced workers?

## LITERATURE REVIEW

This section outlines the conceptual basis, underlying theory, and regulatory framework used to read Permenaker 7/2026 through the lens of contract legal certainty.

### Legal Certainty Theory

Radbruch (2014) places legal certainty as one of the main objectives of law, alongside justice and utility.

- **Basic Concept:** A regulation is considered to provide certainty if its formulation is clear, does not open up room for multiple interpretations, does not conflict with higher regulations, and its implementation and legal consequences can be predicted in advance (predictability).
- **Application in Employment Relations:** Fuller (1969) in The Morality of Law reminds us that the law loses its certainty when its norms are contradictory, change too frequently, or are formulated vaguely. In the employment sector, this kind of certainty is important because it provides a protective barrier for workers and simultaneously creates a healthy business climate for employers.

### Contract Law and Principles of Employment Agreements

The outsourcing relationship is based on a tripartite relationship pattern, namely a triangular relationship between the service user company (user), the labor provider company (vendor), and the workers/laborers.

- **The Principle of Freedom of Contract & Its Limitations:** The freedom to formulate a contract's contents is not absolute. Article 1320 of the Civil Code stipulates four conditions for validity, one of which requires a permissible cause (geoorloofde oorzaak); that is, the contents of the contract must not violate the law, disturb public order, or be contrary to morals.
- **Default / Transfer of Protection Principles (TUPE Principles):** In outsourcing practices, the moment of vendor change is a vulnerable point, so the continuity of workers' rights and work periods must be maintained when the service provider company changes.

### Development of Outsourcing Regulations in Indonesia

The rules regarding outsourcing in Indonesia have changed several times, and each change has consequences on both the formal and material aspects of the contract:

- **Law 13/2003 (Employment):** The outsourcing of work to other parties is limited to supporting activities outside the core business (non-core business).
- **Law 6/2023 (Job Creation) in conjunction with Government Regulation 35/2021:** The distinction between core and non-core is removed at the legislative level, while determining the limits on the types of work that can be outsourced is left to the government.
- **Minister of Manpower Regulation 7/2026:** This latest implementing regulation regulates outsourcing norms and limitations, the obligation to record agreements, and licensing requirements for outsourcing companies.

### Normative Aspects of Outsourcing Contracts

The normative testing in this study is directed at the articles of Permenaker 7/2026 using the following contract law benchmarks:

- **Clarity of Types of Work Outsourced:** Are the limits of work that can be outsourced to other parties formulated clearly enough to prevent excessive shifts in employment status (precarity of employment).
- **Worker Rights Protection Clause:** There is an obligation to include a protection transfer clause (Transfer of Undertakings/Protection) in the PKWT/PKWTT, so that workers' rights remain guaranteed when the outsourcing company changes as long as the work still exists.
- **Vertical and Horizontal Regulation Harmonization:** Compatibility of the material in Permenaker 7/2026 with the regulations above it (PP 35/2021 and the Job Creation Law) to avoid conflicting norms (legal antinomy).

### Relevant Previous Research

Table 1 shows the position of this research compared to previous studies.

**Table 1.** Comparison with Previous Research

| Researcher & Year | Research Focus | Key Findings/Conclusions | Differences with This Research |
|---|---|---|---|
| Samuel, Sinaga & Sudarto (2024) | Responsibilities of business actors towards outsourced workers before and after the Job Creation Law | Articles 64 and 65 of Law 13/2003 were removed and the distinction between contracting out work and providing labor services was eliminated; the author suggests stricter regulations to protect outsourced workers. | This study examines the latest implementing regulations (Minister of Manpower Regulation 7/2026) with a focus on legal certainty of contracts. |
| Jemadur et al. (2026) | Follow-up to the Constitutional Court's decision through the 2026 ministerial regulation and its impact on the constitutional rights of outsourcing workers. | Worker protection is strengthened because outsourcing is limited to support activities and must be agreed in writing; weaknesses lie in the vague term "general operational support services," the weak guarantee of job continuity, and the reliance of regulatory effectiveness on oversight. | This study focuses on the impact of the Minister of Manpower Regulation on the certainty of business contracts (B2B) and employment agreements (B2C), including the threat of default during the transition period. |

## RESEARCH METHODS

This study focuses on examining written legal norms. Ministerial Regulation 7/2026 merits normative review because, as a continuation of Constitutional Court Decision 168/PUU-XXI/2023, it narrows the scope of outsourcing to just six supporting categories, thus directly impacting the transition period and ensuring the certainty of existing employment contracts. The proposed methodology is outlined below.

### 1. Type of Study

This study includes doctrinal legal research, namely research that draws on library materials and treats law as a set of written rules and their supporting teachings (law in books) (Marzuki, 2017). Its primary objective is to examine the harmony of norms and the fulfillment of the principle of legal certainty in contracts after the enactment of Ministerial Regulation 7/2026.

### 2. Research Approach

The issue of legal certainty of contracts in this regulation is studied through three approaches:

a. Statute Approach: carefully read the Minister of Manpower Regulation 7/2026, the Job Creation Law, and Article 1338 of the Civil Code which contains the principle of pacta sunt servanda, namely the binding force of an agreement as a law for its makers.
b. Conceptual Approach: starting from legal concepts, including the theory of legal certainty (Otto, 2012; Radbruch, 2014) and the principles of contract law.
c. Case Approach: analyzing the Constitutional Court's considerations in case 168/PUU-XXI/2023 which became the philosophical and legal basis for the issuance of the Minister of Manpower Regulation.

### 3. Materials Studied

Because it is normative in nature, this study does not collect field data, but processes legal materials detailed in Table 2.

**Table 2.** Classification of Legal Materials Used

| Category | Details |
|---|---|
| **Primer** (binding power) | Book III of the Civil Code concerning contracts; the Job Creation Law; Minister of Manpower Regulation 7/2026; and the Constitutional Court decision in case 168/PUU-XXI/2023. |
| **Secondary** (explains primary material) | Literature on contract and labor law, journal articles, court minutes, academic papers, and legal reviews regarding outsourcing contracts. |
| **Tertiary** (supporting/guiding) | Language dictionary, dictionary of legal terms, and encyclopedia. |

**4. How to Collect Materials**

Materials were collected through literature searches (library research) with the following stages:

1) Inventory the laws and regulations regarding outsourcing and civil agreements.
2) Grouping standard outsourcing contract clauses according to the work limitation provisions in Article 3 of Permenaker 7/2026.
3) Systematically record (documentary study) norms that have the potential to create legal vacuums or overlap and obscure legal certainty during the two-year transition period starting April 2026.

**5. Analysis Techniques**

All materials were then processed qualitatively using deductive reasoning. The major premise, which is the theory of legal certainty and the general principles of contract law, was compared with the minor premise, which is the articles of Ministerial Regulation 7/2026, to obtain concrete conclusions about the current level of legal certainty in outsourcing contracts. The two aspects tested were:

1) Vertical synchronization, namely the alignment of the restrictions on six types of work in Ministerial Regulation 7/2026 with the Job Creation Law and the Constitutional Court's decision; and
2) Dogmatic analysis of contract law, namely the position of outsourcing contracts for non-supporting work that were in effect before April 2026, reviewed from the transitional provisions of Article 10 of Permenaker 7/2026 and the principle of legal certainty of contracts.

## RESULTS AND DISCUSSION

### Legislative Ratio of Minister of Manpower Regulation 7/2026 and Outsourcing Restrictions

The issuance of Ministerial Regulation No. 7/2026 is closely related to the regulatory vacuum regarding the specific limits of work that can be outsourced, after the Job Creation Law combined the concepts of outsourcing of labor services and contracting of work. Article 3 paragraph (2) then filled this vacuum by limiting six categories of supporting activities that may be outsourced (Ministerial Regulation No. 7 of 2026, Article 3 paragraph (2)), which briefly include:

1. Cleaning services;
2. Catering services;
3. Security services;
4. Driver and transportation services for workers/laborers;
5. General operational support services; and
6. Supporting activities in the mining, oil and gas, and electricity sectors.

Philosophically, the rationale behind these restrictions is to restore outsourcing's function as a means of efficiency for supporting activities, not a way for user companies to avoid responsibility for workers engaged in core business. For workers, these restrictions clarify their legal status, as employment outside of these six categories must be converted into a direct employment relationship (PKWT/PKWTT) with the employing company.

### Legal Certainty of Contracts in Employment Relationships (B2C) and Business Relationships (B2B)

Radbruch (2014, p. 107) views legal certainty as a fundamental value that requires laws to be formulated clearly, firmly, and without ambiguity so as to protect legal subjects. In the realm of agreements, this certainty is reflected in the principle of pacta sunt servanda in Article 1338 of the Civil Code: promises made legally must be obeyed by those who make them (Mertokusumo, 2019, p. 81). The influence of Permenaker 7/2026 on this certainty can be observed in the following two types of legal relationships.

**a. Business Contract Relationship (B2B) between User Company and Vendor**

Article 10 letter b of Ministerial Regulation 7/2026 gives companies two years to adjust the types of outsourced work to the new provisions (Ministerial Regulation No. 7 of 2026, Article 10 letter b). For business contracts, this transition period opens up the possibility of breach of contract. Long-term outsourcing contracts signed before 2026 that cover work outside the six areas mentioned must be amended through an addendum, or even terminated early, to ensure the company remains compliant with regulations. Such unilateral termination has the potential to give rise to civil claims for damages, unless the contract contains a force majeure clause covering changes in government policy (government action). Therefore, businesses need flexible contract management to respond to regulatory changes, in line with the role of law in corporate governance (Aspan, 2021, p. 26).

**b. Relationship between Service Providers and their Workers (B2C)**

Simply put, an employment contract is an agreement between a worker and an employer regarding the conditions of employment and the rights and obligations inherent in both. The Civil Code includes it as a type of

contract under Article 1601a, which describes a worker as a party who agrees to work under the orders of another party for a specified period of time in exchange for wages.

Its validity is also tested by four requirements in Article 1320 of the Civil Code: agreement, competence, clear object, and legally justified cause. Furthermore, an employment agreement document must at least contain personal data of both parties, the position or job assigned, the place of work, the wage rate, the rights and obligations of each party, the duration of the agreement, and where and when the agreement was signed (Elfhadjri et al., 2026, p. 3).

To ensure workers' rights are met, Article 4 paragraphs (1) and (2) of Ministerial Regulation 7/2026 requires outsourcing contracts to contain written provisions regarding wages, overtime, leave, K3, social security (BPJS), and rights upon termination of the employment relationship (Ministerial Regulation No. 7 of 2026, Article 4 paragraphs (1) and (2)). The requirement to write down these normative rights is relevant to the need to protect workers from the practice of paying wages below the minimum wage, which still frequently occurs (Hasibuan & Nurhayati, 2023, p. 157). In addition, outsourcing agreements must be registered with the district/city manpower office within three working days (Ministerial Regulation No. 7 of 2026, Article 5 paragraph (2)). Agreements that are not registered may have their registration suspended, thereby losing the basis for operational legality for the placement of workers. With this mechanism, workers' rights become more secure because they are stipulated in a written contract under the direct supervision of the Labor Inspectorate, and the level of legal protection for workers in the Job Creation Law era has also increased (Basofi & Fatmawati, 2023, p. 77). Table 3 summarizes the differences in impact on the two legal relationships.

**Table 3.** Comparison of Impacts on B2B and B2C Contracts

| Contractual Relations Sector | Impact on Legal Certainty | Major Legal Risks |
|---|---|---|
| Business Contracts (B2B) | Certainty of contract continuity is reduced for work outside the six permitted sectors. | Breach of contract claim due to premature termination of vendor contract. |
| Employment Agreement (B2C) | The certainty of fulfilling workers' normative rights increases because they must be stated in writing. | Administrative sanctions and suspension of risk-based business permits if obligations are ignored. |

**Analysis of the Validity of Contemporary Contracts and Joint Liability**

Article 4 paragraph (3) contains an important new aspect, namely joint and several responsibilities. Although formally the employer is the Outsourcing Company (vendor), the Employing Company (user) is also obliged to ensure that all workers' rights are paid properly (Minister of Manpower Regulation No. 7 of 2026, Article 4 paragraph (3)). This provision goes beyond the limits of classical civil law doctrine, which in principle does not impose contractual obligations on third parties who do not sign the agreement (Article 1340 of the Civil Code) (Rahardjo, 2012, p. 134). This shift shows that legal certainty today does not only rely on the principle of contract relativity, but also on preventive and repressive legal protection for interested parties (Nurdiana et al., 2026, p. 1696). Therefore, normatively, this limitation can be understood as an intervention of public law (administrative law) in the area of private law (contract law) to realize distributive justice for workers, whose bargaining power is economically unequal to that of employers (subordinate relationship) (Soepomo, 2018, p. 92).

## CONCLUSION

From a normative perspective, Minister of Manpower Regulation 7/2026 has a dual impact on contractual legal certainty. In employment relationships (B2C), this regulation provides strong substantive certainty because the types of outsourcing work are strictly limited to six supporting categories, labor rights protection clauses are mandatory, and agreements must be recorded. Conversely, in business relationships (B2B), these limiting restrictions reduce the contractual certainty that business actors have established through ongoing long-term contracts. The two-year transition period forces major contract adjustments, which are prone to triggering civil disputes due to the premature termination of legal relationships.

Based on these conclusions, this study makes the following suggestions:

1. **Business Actors (User Companies and Vendors).** All valid outsourcing contracts must be immediately audited for legality. If the work contracted falls outside the six permitted categories, the parties must draft a contract amendment containing a transitional period mitigation clause or the option to transfer workers to direct employment before the transition period ends in 2028.


OPEN ACCESS

2. **Ministry of Manpower.** Through regional manpower offices, standard technical guidelines should be issued on how to adjust contracts during the transition period to prevent a surge in industrial relations disputes due to failure to adapt to the new regulations.

## REFERENCES

Aspan, H. (2021). The role of law in managing companies in the digital era. Menara Ilmu Journal, 26–34.

Basofi, MB, & Fatmawati, I. (2023). Legal protection for workers in Indonesia based on the Job Creation Law. Jurnal Professional, 10(1), 77–86.

Elfhadjri, Z., Nasution, AR, & Rafianti, F. (2026). A legal analysis of the termination of a fixed-term employment contract based on Court Decision No. 50/Pdt.Sus-PHI/2025/PN.Mdn. Judge: Jurnal Hukum Sehasen, 12(1), 1–10.

Fuller, L.L. (1969). The morality of law (Rev. ed.). New Haven: Yale University Press.

Hasibuan, SA, & Nurhayati, S. (2023). Socialization regarding the implementation of wages below the minimum standard in terms of Government Regulation No. 36 of 2021 concerning Wages and Islamic Law in Medan Krio Village. Scenario: Seminar of Social Sciences Engineering and Humanities, 157–165. Medan: Panca Budi Development University.

Jemadur, YB, Rahlevi, AF, Siregar, HG, & Zaky, PN (2026). Implementation of the Constitutional Court Decision through Ministerial Regulation Number 7 of 2026 in protecting the constitutional rights of outsourced workers. Rewang Rencang: Jurnal Hukum Lex Generalis, 7(5), 1–26.

Civil Code (Burgerlijk Wetboek).

Marzuki, PM (2017). Legal research. Jakarta: Kencana Prenada Media Group.

Mertokusumo, S. (2019). Understanding the law: An introduction. Yogyakarta: Liberty.

Nurdiana, C., Nurhayati, S., & Fitrianto, B. (2026). Legal analysis of property sale and purchase agreements in the process of installment payments to third parties (Case study at PT. Juma Suciland Property). Judge: Jurnal Hukum, 6(9), 1696–1705.

Nurhayati, S., Medaline, O., & Wahyuni, E. (2021). Socialization of guarantees for the fulfillment of labor rights by legalizing a short-term contract worker system (outsourcing) based on the Employment Law in Lau Gumba Tourism Village, Berastagi District. Scenario: Seminar of Social Sciences Engineering and Humanities, 53–60. Medan: Panca Budi Development University.

Otto, JM (2012). Real legal certainty in developing countries. In A.W. Bedner, S. Irianto, & T.D. Wirastri (Eds.), Socio-legal studies (pp. 115–156). Denpasar: Pustaka Larasan; Jakarta: University of Indonesia; Leiden: Universiteit Leiden; Groningen: Universiteit Groningen.

Regulation of the Minister of Manpower Number 7 of 2026 concerning Outsourcing Work. State Gazette of the Republic of Indonesia 2026 Number 281.

Decision of the Constitutional Court of the Republic of Indonesia Number 168/PUU-XXI/2023.

Radbruch, G. (2014). Legal philosophy (K. Wilk, Trans.). Cambridge: Harvard University Press.

Rahardjo, S. (2012). Legal Science. Bandung: PT Citra Aditya Bakti.

Samuel, H., Sinaga, NA, & Sudarto. (2024). Legal responsibilities of business actors towards workers based on outsourcing employment relationships before and after the enactment of the Job Creation Law. Intelektualita, 13(1), 1–10. https://doi.org/10.19109/intelektualita.v13i1.18846

Soepomo, I. (2018). Introduction to labor law. Jakarta: Djambatan.

Subekti. (2014). Contract law. Jakarta: Intermasa.

Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to become Law. State Gazette of the Republic of Indonesia 2023 Number 41.


OPEN ACCESS