

# Juridical Analysis of Business Entity Establishment Individual Company in Dimensions Creating Legal Assurance (Research Study at the Regional Office of the Ministry of Law and Ham Province of Riau Islands in Tanjung Pinang)

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## ABSTRACT

*The form of Government support for Micro and Small Enterprises can be seen in the birth of a new form of legal entity in Indonesia, namely an Individual Company specifically for Micro and Small Enterprises which is regulated in the Ease of Doing Business cluster, Part Five, Article 109 of the Job Creation Law. The substance of the Job Creation Law has significantly changed the law on the establishment of Limited Liability Companies in Indonesia, especially those regulated in Law Number 40 of 2007 concerning Limited Liability Companies.*

*Departing from this background, the formulation of the problem can be drawn, including: (1) What are the legal arrangements regarding the formation of individual limited company business entities in Indonesia? (2) How is the implementation of the establishment of an individual limited company business entity in Indonesia? and (3) What factors are the obstacles and obstacles as well as solutions in the formation of individual limited liability companies in Indonesia?*

*To answer the above problems, research was carried out using a normative juridical approach supported by empirical research. To obtain the necessary legal materials, it is carried out by means of observation, interviews, searches, collection and study of library materials, laws and regulations, research results, scientific papers and other written documents. The data obtained from the research results were then analyzed descriptively qualitatively with some quantitative data.*

*From the research results it is known that there is a legal basis that forms the basis for setting up individual company companies, their implementation as well as the factors that become obstacles and obstacles as well as solutions to the formation of individual company companies in Indonesia. In addition, suggestions were also given to stakeholders, namely the legislature, executive, and subsequent researchers..*

**Keyword :** *Limited Liability Company, Individual Company, Micro and Small Enterprises.*

## INTRODUCTION

The Job Creation Law or Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) is a law in Indonesia which was passed on October 5, 2020 by the Council Representative of the People of the Republic of Indonesia (DPR RI) and promulgated on November 2 2020. The Job Creation Law is an omnibus law that regulates regulatory changes in various sectors with the aim of improving the investment climate and creating legal certainty.

The Omnibus Law breakthrough allows 80 laws and more than 1,200 articles to be revised with the Job Creation Law which regulates multi-sectors. Thus, the revision trimmed the ineffective articles. This breakthrough is needed to improve the business climate, improve conflicting horizontal and vertical policies, increase Indonesia's regulatory index which is still low, overcome the phenomenon of hyper regulation and inefficient policies, as well as laws that are sectoral and often out of sync.

The presence of the Job Creation Law in order to improve the business climate is not only aimed at medium and large players, but also prioritizes micro and small businesses. Considering that the increase or decrease in economic growth in Indonesia is also influenced by the involvement of Micro, Small and Medium Enterprises (MSMEs). In accordance with Article 33 Paragraph 4 of the 1945 Constitution (State Gazette of the Republic of Indonesia of 1959 Number 75), MSMEs are part of the national economy that has an independent perspective and has great potential to improve people's welfare.

The form of Government support for Micro and Small Enterprises can be seen in the birth of a new form of legal entity in Indonesia, namely an Individual Company specifically for Micro and Small Enterprises which is regulated in the Ease of Doing Business cluster, Part Five, Article 109 of the Job Creation Law. The substance of the Job Creation Law has significantly changed the law on the establishment of Limited Liability Companies in Indonesia, especially those stipulated in Law Number 40 of 2007 concerning Limited Liability Companies (State Gazette of the Republic of Indonesia of 2007 Number 106, Supplement to State Gazette of the Republic of Indonesia Number 4756). Based on the Job Creation Law, the definition of a Limited Liability Company has expanded to become a legal entity which is a capital partnership, established based on an agreement, conducting business activities with an authorized capital which is entirely divided into shares or Individual Legal Entities that meet the criteria for Micro and Small Enterprises as stipulated in the Regulations Legislation regarding Micro and Small Enterprises.

The Government's breakthrough in creating individual companies is expected to become an economic force in Indonesia and able to encourage good management by Micro and Small Business actors. However, it cannot be denied that the relaxation of the ease of establishment of the company must be supported by the existence of good legal arrangements, so as to prevent conflicts in the future. Given the practice, there are many internal disputes related to conflicts of interest in a limited liability company founded by 2 (two) people or more that go to court, so that not a few argue that the establishment of a limited liability company by 1 (one) person has the potential to cause a conflict of interest, moreover if the shareholder also serves as the only member of the board of directors in a limited liability company, the application of the principles of good corporate governance is said to be more difficult to do. Therefore, researchers are interested in raising this issue to conduct research with the title Juridical Analysis of Business Entity Establishment Individual Company in Dimensions Creating Legal Assurance (Research Study at the Regional Office of the Ministry of Law and Ham Province of Riau Islands in Tanjung Pinang)

## LITERATURE SOURCE

Literature sources play an important role in the analysis of the formulation of the problems to be discussed in this study using grand theory, middle theory and applied theory.

The grand theory used in this research is the Theory of Legal Positivism by John Austin which suggests that law has 4 elements, namely: (a) command; (b) sanctions (sanctions); (c) obligation (duty) and (d) sovereignty in accordance with Mortgage Rights in providing legal certainty.

Middle theory applied to the Legal System by Lawrence M. Friedman which explains the legal system consists of 3 (three) elements/tools, namely legal structure, legal substance (legislation) and legal culture or legal culture. These three components support the functioning of the legal system in a country.

The applied theory used is Responsive Law Theory which is the theory of Philippe Nonet and Philip Selznick, according to both of them good law should provide something more than just legal procedures. The law must be competent as well as fair, it must be able to recognize the wishes of the public and have a commitment to achieving substantive justice.

## METHODOLOGY AND TYPES OF RESEARCH

The method comes from the word methodology which means a science that studies the types and forms of methods that will be used by a writer in carrying out a writing whose goal is to find a truth, while research is a managed, systematic investigation or investigation based on data, critical, objective and scientific. to a specific problem that is aimed at finding alternative solutions to related problems, the specifications of this research are analyzed up to the level of dethesis, namely analyzing and presenting facts systematically so that they can be easier

to understand and conclude, and are normative in nature supported by sociological law (empirical). The data collection techniques in this study namely:

1. Literature study (library research); Normative law originates from secondary data that the author obtained from library research, among others:
  - a. Primary legal materials; The 1945 Constitution of the Republic of Indonesia (State Gazette of the Republic of Indonesia of 1959 Number 75), Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573), Law -Law Number 40 of 2007 concerning Limited Liability Companies (State Gazette of the Republic of Indonesia of 2007 Number 106, Supplement to the State Gazette of the Republic of Indonesia Number 4756), Government Regulation of the Republic of Indonesia Number 7 of 2021 concerning Ease, Protection and Empowerment of Cooperatives and Micro, Small, And Medium (State Gazette of the Republic of Indonesia of 2021 Number 17, Supplement to the State Gazette of the Republic of Indonesia Number 6619), Government Regulation Number 8 of 2021 concerning Company Authorized Capital and Registration, Establishment, Amendment and Dissolution of Companies that Meet the Criteria for Micro and Small Enterprises (Gazette Republic of Indonesia Year 2021 Number 18, Supplementary Sheet Republic of Indonesia Number 6620) and laws and regulations related to individual companies.
  - b. Secondary legal materials/secondary data; Legal materials that can help analyze and understand legal materials include scientific works, draft laws (RUU) and research results.
  - c. Tertiary legal materials; legal materials that provide instructions as well as explanations of primary and secondary legal materials including newspapers, bibliographies, legal dictionaries, Big Indonesian Dictionary, encyclopedias, internet and so on.
2. Field Study

The location of the research will be conducted at the Regional Office of the Ministry of Law and Human Rights of the Riau Archipelago Province in Tanjung Pinang. One and another based on the consideration that the executive branch is an institution that is given the power to implement laws.

## **PROBLEM FORMULATION CONSTRUCTION**

Based on the description of the background above, the researcher can formulate the problem to be studied, including the following:

1. What are the legal arrangements regarding the formation of individual company business entities in Indonesia?
2. How is the implementation of the establishment of an individual limited company business entity in Indonesia?
3. What factors are the obstacles and obstacles as well as solutions in the formation of individual limited liability companies in Indonesia?

## **DISCUSSION**

### **LEGAL ARRANGEMENTS FOR THE FORMATION OF INDIVIDUAL COMPANY BUSINESS ENTITIES IN INDONESIA**

In the history of the development of limited liability company arrangements have been at a stagnant point since the Indonesian Commercial Law Code was enacted in Indonesia (Dutch East Indies at that time) in 1848 based on the principle of concordance or *concordantie beginsel*. The first change to the regulation regarding the new limited liability company was in 1995 with the enactment of Law Number 1 of 1995 concerning Limited Liability Companies, and 12 (twelve) years later the Government made the second amendment with the enactment of Law Number 40 of 2007 concerning Limited Liability Companies replacing previous law. Twice the changes in the institutional regulations regarding limited liability companies are able to illustrate the opposite character when faced with economic activities that tend to be fluid and dynamic.

The enactment of Law Number 11 of 2020 Concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) on 2 November 2020 has revoked two regulations and changed at least 82 (eighty two) laws another. One that was also amended was Law Number 40 of 2007 concerning Limited Liability Companies (State Gazette of the Republic of Indonesia of 2007 Number 106, Supplement to the State Gazette of the Republic of Indonesia Number 4756). In Part

Five regarding Limited Liability Companies, Article 109 of the Job Creation Law regulates a number of articles that amend several provisions in the Limited Liability Company Law.

The government has also promulgated 49 (forty nine) implementing regulations for the Job Creation Law, one of which is the implementing regulation regarding Limited Liability Companies as contained in Government Regulation Number 8 of 2021 concerning Company Authorized Capital and Registration, Establishment, Amendment and Dissolution of Companies that Meets the Criteria for Micro and Small Enterprises (State Gazette of the Republic of Indonesia of 2021 Number 18, Supplement to the State Gazette of the Republic of Indonesia Number 6620) and Government Regulation of the Republic of Indonesia Number 7 of 2021 concerning Ease, Protection and Empowerment of Cooperatives and Micro, Small and Medium Enterprises (State Gazette of the Republic of Indonesia of 2021 Number 17, Supplement to the State Gazette of the Republic of Indonesia Number 6619). Some of the main arrangements for Limited Liability Companies based on the Job Creation Law and its implementing regulations are as follows:

**a. Definition of Individual Company**

The definition of a Limited Liability Company as it turns out in Article 1 number 1 of the Limited Liability Company Law, is: "Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares and meet the requirements stipulated in this law and its implementing regulations."

After the Job Creation Law, the company has experienced an expansion of the concept which has been introduced with a new term, namely Individual Company. The definition of an Individual Company based on Article 1 point 1 of the Limited Liability Company Law which has changed its meaning based on Article 109 point 1 of the Job Creation Law, is: "Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is an association of capital, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or individual legal entities that meet the criteria of Micro and Small Enterprises as stipulated in the laws and regulations concerning Micro and Small Enterprises."

**b. Establishment of Individual Company**

The procedure for establishing an individual company is different from a limited liability company which is established by two or more people. Pursuant to the provisions of Article 7 of the Limited Liability Company Law which has been amended by the Job Creation Law, a company is established by 2 (two) or more people with a Notary Deed drawn up in the Indonesian language. The company obtains legal entity status after being registered with the Minister and obtaining proof of registration. The notarial deed is important because it is an authentic deed that plays a role in creating legal certainty and can be used as strong and full evidence in the eyes of the law because of its binding and perfect nature.

An individual company is a company that meets the criteria for micro and small businesses, so that the establishment of an individual company does not require a notary deed in Indonesian and only a statement of incorporation made in Indonesian is sufficient. This is reaffirmed in Article 153A of the Limited Liability Company Law which states that:

- a. Companies that meet the criteria for micro and small businesses can be founded by 1 (one) person;
- b. The establishment of a company for micro and small businesses as referred to in paragraph (1) is carried out based on a statement of establishment made in the Indonesian language;
- c. Further provisions regarding the establishment of companies for micro and small businesses are regulated by government regulations.

Then it is further regulated in implementing regulations Article 6 of Government Regulation Number 8 of 2021, which states that:

- a. An individual company established by an Indonesian Citizen by filling out a Statement of Establishment in the Indonesian language.
- b. Indonesian citizens as referred to in paragraph (1) must meet the requirements:
  - 1) at least 17 (seventeen) years old; and
  - 2) legally feasible.
- c. Individual companies obtain legal entity status after being registered with the Minister and obtaining an electronic registration certificate.
- d. Individual companies that have obtained legal entity status as referred to in paragraph (3) are announced by the Minister on the official website of the Directorate General which carries out duties and functions in the field of general legal administration.

The government also regulates restrictions on the establishment of individual companies. The Founder of a Company can only establish a Limited Liability Company for Micro and Small Enterprises in the amount of 1 (one) Company for Micro and Small Enterprises in 1 (one) year. So to establish a second individual company and so on,

the founder of the company must wait at least 1 (one) year from the date of establishment of an individual company or to establish a company founded by 2 (two) or more people.

**c. Business Capital of Individual Companies**

Under the Limited Liability Company Law, the authorized capital of a Limited Liability Company is set at a minimum of Rp. 50,000,000.00 (fifty million Rupiah). Then the Job Creation Law reaffirmed the Government Regulation of the Republic of Indonesia Number 29 of 2016 concerning Changes in the Authorized Capital of Limited Liability Companies (State Gazette of the Republic of Indonesia of 2016 Number 137, Supplement to the State Gazette of the Republic of Indonesia Number 5901), by removing the provision for the minimum amount of authorized capital must be owned by the Company, unless the Company carries out certain business activities, the minimum authorized capital of the Company must be in accordance with the provisions of the laws and regulations.

Individual Company is an individual legal entity that meets the criteria for Micro and Small Enterprises as stipulated in the laws and regulations concerning Micro and Small Enterprises. Therefore, the provisions regarding Individual Capital cannot be separated from the criteria for Micro and Small Enterprises as stipulated in Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (State Gazette of the Republic of Indonesia of 2008 Number 93, Supplement to the State Gazette of the Republic of Indonesia Number 4866).

**d. Individual Company Organs**

In Implementing Regulation No. 8 of 2021 does not explicitly regulate the organs of individual companies, however, in the provisions of Article 7 paragraph (1) and (2) PP No. 8/2021 stipulates that an individual company is established with a statement of establishment accompanied by the identity of the founder as well as the director and shareholders of the individual company. So it can be concluded that the internal organs of an individual company only consist of shareholders and directors, eliminating the board of commissioners.

This is in line with the statement of the Minister of Law and Human Rights Yasona Laoly who stated that individual limited liability companies have a one tier nature. That is, only one shareholder, who also serves as a director, and does not require a commissioner organ. This is different from the establishment of a Limited Liability Company in general which requires 2 people, one director and one commissioner.

The decision (RUPS) of the General Meeting of Shareholders changes to a Shareholders' Resolution which is clearly regulated based on Government Regulation Number 8 of 2021. Changes and Dissolution of Individual Companies are stipulated by a RUPS Decision to be replaced by a Shareholders' Decision which has binding legal force equivalent to the RUPS Decision.

**e. Responsibilities of Individual Company Shareholders**

Shareholder responsibility has been explicitly regulated in the amendment to the new Limited Liability Company Law article 153 J which states that "(1) Company shareholders for Micro and Small businesses are not personally responsible for engagements made on behalf of the Company and are not responsible for the Company's losses exceed the shares owned", so that if there is a loss for all actions carried out by the Individual Company, the shareholder can only be held responsible for the shares included/owned in the Individual Company .

**f. Dissolution of Individual Companies**

Shareholders of individual limited liability companies can dissolve the company by making a shareholder decision which is stated in the dissolution statement and notified electronically to the Minister of Law and Human Rights. In addition to the decision of the shareholders, an individual company can be dissolved because its term has expired, based on a court decision the company is declared dissolved, with the revocation of a court decision that has permanent legal force, the bankruptcy assets of the individual company are not sufficient to pay bankruptcy fees, the bankrupt assets are in a state of insolvency or revocation of business license thereby requiring individual companies to carry out liquidation and fill out a statement of dissolution.

## **IMPLEMENTATION OF ESTABLISHMENT OF INDIVIDUAL COMPANY BUSINESS ENTITIES IN INDONESIA**

On October 8, 2021, the Ministry of Law and Human Rights (Kemenkumham) finally launched the Individual Company which the people of Indonesia have been waiting for. The new legal entity which is expected to become a symbol of the rise of Small, Micro and Medium Enterprises (MSMEs) was released directly by the Minister of Law and Human Rights (Menkumham), Yasonna H. Laoly, who was accompanied by the Director General of General Legal Administration (Dirjen AHU) , Cahyo R. Muzhar, as a solution to the economic setbacks faced by Indonesia due to the Covid-19 pandemic.

Registration of an Individual Company can be done independently by the founder by filling out the establishment statement form electronically, without the need for a notary deed. Founders only need to prepare their

identity in the form of KTP and NPWP and pay a fee of Rp. 50,000 (fifty thousand Rupiah) which is deposited as PNBP (Non-Tax State Revenue). For company registration, Founders can access the AHU application for Individual Company Registration through the <https://ahu.go.id> page then select the Individual Company Registration Application menu icon or access directly to the page <http://ptp.ahu.go.id>.

Individual company is a new legal product and needs to be disseminated to the public. The Riau Archipelago Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia also has a performance target in the form of massive outreach to the public about Individual Companies. The socialization was carried out by direct or indirect methods.

Direct socialization is carried out by holding discussions that present and invite the audience directly and invite speakers from relevant stakeholders, both from the Directorate General of General Law Administration, the Ministry of Tourism and Creative Economy, the Directorate General of Intellectual Property, and Banking or Financing Institutions. Direct outreach has been successfully held in the cities of Tanjung Pinang, Batam and Karimun. Meanwhile, indirect socialization was carried out through the installation of billboards at several strategic points in Tanjung Pinang City and Batam, as well as through interactive dialogues or talk shows on private radio and on Radio Republik Indonesia (RRI).

With various outreach efforts that have been carried out by the Riau Archipelago Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia, since the first individual companies were launched until September 23, 2022, 701 individual companies have been established based in the Riau Islands Province. The Riau Archipelago Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia does not have a specific target for the number or number of Individual Company Establishments to be achieved, but they have hopes that as many Individual Corporations can be established.

Tabel 1: Number of Legal Entity Registrations in Riau Island Province (2022)

No.	Month	Amount				Amount
		Company	Association	Foundation	Individual Company	
1	Januari	607	15	70	50	742
2	Februari	421	22	55	58	556
3	Maret	557	22	63	58	700
4	April	491	19	59	48	617
5	Mei	364	13	34	58	469
6	Juni	624	18	71	64	777
7	Juli	588	22	53	182	845
8	Agustus	644	26	68	106	844
9	September	454	41	28	77	600
10	Oktober					0
11	November					0
12	Desember					0
TOTAL		4750	198	501	701	6150

Data Source: Ministry of Law and Human Rights RI - Riau Islands Regional Office

In the case of the establishment of a Limited Liability Company, the Notary has an important role based on the authority granted by the Notary Office Law, namely making deed of establishment and providing legal counseling in connection with making deed. However, with the promulgation of the Job Creation Law and its implementing regulations which are oriented towards providing arrangements for convenience, protection and empowerment of cooperatives and micro, small and medium enterprises, the process of establishing individuals only needs to fill out the form provided on the registration website. So that the Notary does not have authority in the process of establishing an individual company.

## FACTORS OF CONSTRAINTS AND OBSTACLES AND SOLUTIONS IN ESTABLISHING INDIVIDUAL COMPANY BUSINESS ENTITIES IN INDONESIA

In order to improve the economy and provide ease of doing business in Indonesia, the Government promulgated Law Number 11 of 2020 concerning Job Creation. This convenience can also be felt by micro and

small business actors, one of which is the birth of an Individual Company or what is often referred to as a Micro and Small Business Company. With all the benefits that will be obtained from an Individual Liability Company, there are several obstacles and obstacles in the formation of an individual limited company business entity in Indonesia.

a. Expansion of the Individual Company Concept

The basic concept of a sole proprietorship is clearly different from a limited liability company. Basically, the choice to do business in the form of an individual company or sole proprietorship is based on considerations of simplicity and convenience. Because it was only formed by one person, this company does not need a deed of agreement for its establishment or the approval of other parties in dissolution. Thus there is no need to register either. This contrasts with the concept of the Company as a legal entity (*rechtspersoon*) whose basic element is an association of capital (shares), including associations of people or investors (shareholders). Due to its form as a legal entity, its formation must follow the method stipulated by law, including the obligation to obtain approval from the government.

b. Authority of a Notary in the Establishment of an Individual Company

The establishment of a Limited Liability Company only through a statement letter does not guarantee the legality of the documents and identity of the founder. The legality of a Limited Liability Company will be doubted and at risk because it can commit acts against the law, and as a consequence the Limited Liability Company is a legal entity, the legality of the documents and the identity of the founder must be accountable. So that in guaranteeing legal certainty and legal protection, the deed of establishment of a Limited Liability Company drawn up by a Notary is still required to guarantee the legality of the Limited Liability Company, the validity of the documents and the identity of the founder even though it is only a Limited Liability Company for Micro and Small Enterprises.

The legality of a company or business entity is the most important element, because legality is a self-identity that legalizes or legalizes a business entity. The role of the Notary is very much needed to ensure that documents sent electronically to the government are indeed sent by legitimate parties, in order to avoid abuse of authority. In the case of the establishment of the Micro and Small Business Limited Liability Company there are no physical documents that must be provided to the government, only in the form of scans of the documents, and the party signing the statement cannot be sure that the document has been signed directly by the party concerned. Thus there is no need for a notarial deed in the establishment of a Micro and Small Enterprise company which will result in not guaranteeing legal certainty.

c. Individual Company Organs

The Board of Commissioners' organs are not regulated in individual PTs because PP Number 8 of 2021 as the implementing regulation on the Job Creation Law stipulates that shareholders function as directors at the same time. It is certain that the supervisory process carried out by the Commissioner on the Director will not be effective. To prevent a conflict of authority between the Commissioner and the Director who is also the sole shareholder, the role of the Commissioner is abolished.

Shareholders are authorized to take over the duties and responsibilities of Commissioners, because there is only one personal figure in an individual PT, namely the Sole Shareholder, who concurrently serves as a Director. The Board of Commissioners' organs in an individual PT should be regulated and still exist, even though in the implementation process their functions do not exist, but the void in norms can be avoided. So that Government Regulation Number 8 of 2021, which is the executor of the Job Creation Law, stipulates that "founders are also shareholders, directors and commissioners of individual companies". Or another option can be taken, namely by not holding concurrent positions, the capital of the individual PT is still held by the Sole Shareholder, who is then appointed by someone as a director and another person as a commissioner. This reflects more alignment with the Job Creation Law.

d. Responsibility of Shareholders

In Article 153J of the Job Creation Law, it contains the doctrine of piercing the corporate veil, which means opening the curtain on the company, where liability which was originally limited is opened and broken into unlimited responsibility up to personal property when there is a violation, irregularity or mistake in managing the company. The legal consequence is the elimination of limited liability to shareholders. The principle of piercing the corporate veil is a principle that justifies the elimination of limited liability to shareholders in certain circumstances. Bypassing the limited liability of shareholders through the principle of piercing the corporate veil is intended to prevent abuse of legal protection given to shareholders such as actions in bad faith, negligent, careless, contrary to the interests of the company and causing the company to go bankrupt.

Regarding proving that bad faith was committed by shareholders in an individual company, it seems difficult to do this because of the loss of the position of commissioner in the company whose function is to oversee the running of the company to avoid bad faith on the part of one party. The term "personal interest" is also

counterproductive considering that an individual legal entity is established by one person who will naturally protect his own private property. Even though there is an obligation to submit financial reports to the Ministry of Law and Human Rights, strict supervision cannot be ensured. Mixing assets in an individual company is also very difficult to avoid, this is because the company is meant to carry out activities based on family principles, or economic principles. Under these conditions, the limitation of liability will be even more difficult, in terms of unprofessional management of the Company

## CONCLUSIONS AND RECOMMENDATIONS

### 1. CONCLUSIONS

1. The presence of the Job Creation Law provides for several changes, one of which is that a Limited Liability Company can be established by 1 (one) person. This has an impact on changing Article 1 number 1 of the Limited Liability Company Law which provides a definition of a Limited Liability Company. Based on Article 109 of the Job Creation Law, Article 1 number 1 of the Limited Liability Company Law, it was amended to become: "Limited company, hereinafter referred to as the Company, is a legal entity which is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or legal entities. individuals who meet the criteria for Micro and Small Enterprises as stipulated in the laws and regulations regarding Micro and Small Enterprises." In principle, the arrangement for an individual company is the same as a limited liability company, only in certain aspects the arrangement for an individual company is simplified. Regulations related to Individual Companies include the establishment of a Company which can be established with only 1 (one) founder based on a statement of establishment without using a Notary Deed, with limited liability such as a Limited Liability Company which is known so far, company organs which only consist of Directors and GMS only, Individual company legal entity status is only obtained after being registered with the Minister and obtaining an electronic registration certificate, the authorized capital is determined by the decision of the company founder, and the transition from the status of an individual company to an ordinary company is also possible.
2. Implementation of the Job Creation Law is one of the Government's strategic policies to support the development of MSMEs. Through the Job Creation Law, the Government gave birth to a new form of business in the form of a Limited Liability Company which can be established by individuals and is intended for micro and small businesses. For company registration, Founders can access the AHU application for Individual Company Registration through the <https://ahu.go.id> page, then select the Individual Company Registration Application menu icon or direct access to the <http://ptp.ahu.go.id> page. Registration of an Individual Company can be done independently by the founder by filling out the establishment statement form electronically, without the need for a notary deed.
3. Individual company is a new legal product and needs to be disseminated to the public. The Riau Archipelago Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia also has a performance target in the form of massive outreach to the public about Individual Companies. The socialization was carried out by direct or indirect methods. With various outreach efforts that have been carried out by the Riau Archipelago Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia, since the first individual companies were launched until September 23, 2022, 701 individual companies have been established based in the Riau Islands Province.
4. In order to improve the economy and provide ease of doing business in Indonesia, the Government enacts Law Number 11 of 2020 concerning Job Creation. This convenience can also be felt by micro and small business actors, one of which is the birth of an Individual Company or what is often referred to as a Micro and Small Business Company. With all the benefits that will be obtained from an Individual Liability Company, there are several obstacles and obstacles in the formation of an individual limited company business entity in Indonesia. Obstacles and obstacles can be felt from the rule of law itself and the process of implementing the law. The legal loopholes contained in the law are in the form of expanding the limited liability company concept, the absence of a notary deed in the establishment of individual companies, the minimum business capital in individual companies is not determined, the loss of commissioners' organs in individual companies, and limited liability in individual companies. While the implementation process experienced obstacles and obstacles from the side of many people who did not understand the concept of a limited liability company, and until now the Online Legal Administration system has not accommodated electronic delivery to the Minister of proof of issued and fully paid up capital of at least 25% (twenty five percent) as well as submission of individual company financial reports.



## 2. SUGESTION

1. Based on the Decision of the Constitutional Court (MK) Number 91/PUU-XVIII/2020, the government is given 2 (two) years to improve the Job Creation Law. It is hoped that the government and the DPR can work quickly to fix these problems, so that the Job Creation Law can remain in effect and not become permanently unconstitutional.
2. In introducing individual companies to the public, the government must carry out massive and systematic outreach. The Riau Islands Kemenkumham Regional Office is also expected to be able to create a special call center for the people of the Riau Islands who wish to consult regarding the Establishment of Individual Companies. Notaries as public officials who are close to the community are also expected to provide counseling regarding individual companies.
3. The government can take preventive steps against legal loopholes that may arise through improvements to the Job Creation Law and its implementing regulations. In addition, there is a need for an individual company system that is integrated and accommodates all the requirements mandated by law, and must be supported by quality human resources at the Ministry of Law and Human Rights. It is also important to disseminate information to the public regarding the concept of an individual company, including the procedures for reporting individual company financial statements.

## REFERENCES

### BOOK

1. Arifin, Syamsul, *Metode Penulisan Karya Ilmiah dan Penelitian Hukum*, Medan Area University Press, Medan, 2012.
2. Budiyo, Tri, *Hukum Perusahaan*, Griya Media, Salatiga, 2011.
3. Idham, *Analisis Kritis Pendaftaran Tanah Hak Ulayat Milik Masyarakat Adat Untuk Meneguhkan Kepastian Hukum dan Peningkatan Ekonomi Kerakyatan*, Cetakan I, Edisi Pertama, PT. Alumni Bandung, 2014.
4. Idham, *Dimensi Paradigma Politik Hukum Pelaksanaan Konsolidasi Tanah Di Wilayah Pesisir Dan Pulau-Pulau Kecil Guna Meningkatkan Pertumbuhan Ekonomi Masyarakat*, PT. Alumni, Bandung, 2018.
5. Suhartono, Irawan, *Metode Penelitian Sosial Suatu Teknik Penelitian Bidang Kesejahteraan Sosial lainnya*, Remaja Rosda Karya, Bandung, 1999.

### LEGISLATION

1. Undang-Undang Republik Indonesia Nomor 11 Tahun 2020 tentang Cipta Kerja (Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245, Tambahan Lembaran Negara Republik Indonesia Nomor 6573).
2. Undang-Undang Republik Indonesia Nomor 40 Tahun 2007, tentang Perseroan Terbatas. (Lembaran Negara Republik Indonesia Tahun 2007 Nomor 106, Tambahan Lembaran Negara Republik Indonesia Nomor 4756).
3. Undang-Undang Nomor 20 Tahun 2008 tentang Usaha Mikro, Kecil, dan Menengah (Lembaran Negara Republik Indonesia Tahun 2008 Nomor 93, Tambahan Lembaran Negara Republik Indonesia Nomor 4866).
4. Peraturan Pemerintah Republik Indonesia Nomor 7 Tahun 2021 tentang Kemudahan, Pelindungan, Dan Pemberdayaan Koperasi Dan Usaha Mikro, Kecil, Dan Menengah. (Lembaran Negara Republik Indonesia Tahun 2021 Nomor 17, Tambahan Lembaran Negara Republik Indonesia Nomor 6619).
5. Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 3, Tambahan Lembaran Negara Republik Indonesia Nomor 5491).
6. Peraturan Pemerintah Republik Indonesia Nomor 8 Tahun 2021 tentang Modal Dasar Perseroan Serta Pendaftaran Pendirian, Perubahan, dan Pembubaran Perseroan Yang Memenuhi Kriteria Untuk Usaha Mikro dan Kecil. (Lembaran Negara Republik Indonesia Tahun 2021 Nomor 18, Tambahan Lembaran Negara Republik Indonesia Nomor 6620).
7. Peraturan Pemerintah Republik Indonesia Nomor 29 Tahun 2016 Tentang Perubahan Modal Dasar Perseroan Terbatas (Lembaran Negara Republik Indonesia Tahun 2016 Nomor 137, Tambahan Lembaran Negara Republik Indonesia Nomor 5901).

8. Peraturan Pemerintah Republik Indonesia Nomor 43 Tahun 2011 tentang Tata Cara Pengajuan dan Pemakaian Nama Perseroan Terbatas (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 96, Tambahan Lembaran Negara Republik Indonesia Nomor 5244).
9. Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 Tanggal 25 November 2021 Tentang Pengujian Formil Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

#### **DISSERTATIONS, THESES, THESIS HANDBOOKS, JOURNALS AND LAW DICTIONARIES**

1. Aman, Perlindungan Hukum Notaris Dalam Melaksanakan Rahasia Jabatan, *Recital Review*, Vol. 1 No. 2 (2019).
2. Febri Jaya, Potensi Konflik Kepentingan dalam Pendirian Badan Hukum Perorangan Pasca Revisi Undang-Undang Perseroan Terbatas dalam Omnibus Law, *Kosmik Hukum*, Vol 21 No. 2 (2021).
3. Isnaeni, Diyan, Peran Notaris Dalam Pendirian PT Usaha Mikro Dan Kecil, *Jurnal Hukum Dan Kenotariatan*, Vol 5 No. 2 (2021).

#### **WEBSITE / INTERNET**

1. <https://www.bkpm.go.id/id/publikasi/detail/berita/uu-cipta-kerja-berikan-jalan-mudah-untuk-berinvestasi-di-indonesia> , diakses pada tanggal 16 Juni 2022
2. Kemenkumham Akhirnya Launching Perseroan Perorangan Badan Hukum Khas Indonesia, <https://portal.ahu.go.id/id/detail/39-berita/2924-kemenkumham-akhirnya-launching-perseroan-perorangan-badan-hukum-khas-indonesia>, diakses pada tanggal 27 September 2022

