

Juridical Analysis of The Role of Local Governments, Notaries on The Obligation of Business Entities to Register for Business Licenses Through *Oss-Online Single Submission* to Realize Legal Certainty (Research Study at The Office of Investment and One Door Integrated Services in Batam)

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ABSTRACT

In the provisions of the Notary Position Regulations and the Notary Position Act, it basically states that the main task of a notary is to make authentic deeds. The purpose of this study is to determine the legal regulation of the role of a notary in the obligation of business entities to register their business licenses through Online Single Submission (OSS). This research uses empirical research methods and qualitative research approaches. At this time, registration of business licenses through the electronic system has been implemented as regulated in Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services. Determine that Business Licensing is Electronically Integrated or Online Single Submission (OSS). Based on the results of research conducted at the Batam City Investment and One Stop Integrated Service Office, the confirmation of the readiness of the OSS system facilities is a serious concern for the Batam City Government at this time. This is intended to provide services or services to the public or investors because "fast" licensing is the main point in investing..

Keyword : *Notary, Business License Registration, OSS.*

INTRODUCTION

Economic growth shows the extent to which economic activity will generate prosperity, and people can increase their income in a certain period. Welfare refers to the development of social welfare, with a series of planned and institutionalized activities aimed at improving the standard and quality of human life. The government is the most common member unit which has certain responsibilities to maintain the system in which it belongs and the practical monopoly concerning its coercive power. The definition of central government is the administration of the Unitary State of the Republic of Indonesia, namely the President with the assistance of a Vice President and by state ministers. In other words, the central government is a national government domiciled in the capital city of the State. Republic of Indonesia. Local government is the administration of government affairs by local governments. Its role also cannot be separated from the notary in terms of registration of business licenses. A notary in English is called a notary, while in Dutch it is called a notary van notaris.

The government wants a notary as a public official who is appointed and dismissed by the government and given the authority and obligation to be able to provide services to the community in helping to make agreements. -

authentic deed. Article 1868 explains that an authentic deed is a deed which in the form determined by law is made by or in the presence of public officials of the authority for that purpose at the place where the deed was made. A notary deed plays an important role in creating legal certainty, because of its authentic nature and can be used as a means of proof whose proving power is outward and full in the event of problems related to the deed in the future. In this modern era, the need for an authentic deed as proof is increasing along with the increase in business relations in various business fields, from local to international scale. The position of a Notary in Indonesia is more difficult than that of a Notary in the Netherlands. A Notary faces customers (clients) of various population groups and each has its own customs and has diverse differences. Therefore, a Notary is obliged to provide legal counseling in advance which is easily understood by customers when dealing with a Notary.

The provisions of a Notary in his authority to make an authentic deed have been regulated in Law Number 30 of 2004 concerning Notary Positions as amended by Law Number 2 of 2014 concerning Law on Notary Positions. In Article 1 point 1 of the Law on Notary Positions, it has been stated that a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other Laws. Notaries in carrying out their duties and authorities are based on the Law on Notary Positions. Provision essentially states that the main task of a notary is to make authentic deeds.

To establish a company based on the law, the Notary as a General Officer is authorized to make a deed of establishment of a business entity. In establishing a company, at this time, registration of a business license has been applied through the electronic system regulated in Government Regulation Number 24 of 2018 concerning Business Licensing Services. Integrated Electronically. In business licensing services, there has been a revolution in service. Based on Article 1 paragraph (5) of the Government Regulation of the Republic of Indonesia Number 24 of 2018 determines that the Electronic Integrated Business Licensing or Online Single Submission (OSS) is a Business Licensing issued by the OSS Institution for and on behalf of the minister, head of the institution, governor or mayor/regent to Business Actors through an integrated electronic system.

Permits at the time of business establishment must be owned by every company. There are several types of permits in general, including: 1. Company Domicile Certificate (SKDP); 2. Taxpayer Identification Number (NPWP); 3. Trading Business License (SIUP); 4. Company Registration Certificate (TDP). Based on the guidelines for business licensing through the Online Single Submission system made by the Coordinating Ministry for Economic Affairs of the Republic of Indonesia in July 2018, parties who register company permits through the Online Single Submission system are registered by business actors and other parties such as Legal Consultants and Notaries.

LITERATURE SOURCE

In this section, we will describe the guidelines as a source of literature. Related to this, and adjusted to the variables as contained in the central theme in this journal, in essence the literature source that will be used as one of the (Peter Mahmud Marzuki, 2006) materials to analyze the construction of the problem formulation in question, is to rely on literature sources that comes from secondary data. Related to what has been mentioned in the section above, that the use of literature sources from secondary data, in its embodiment is based on several types of secondary data literature, which in essence the secondary data consists of primary legal materials, secondary legal materials and tertiary law, all of which are obtained through a study of the literature (*library research*).

METHODOLOGY AND TYPES OF RESEARCH

Specifically regarding the type of writing, methodology and theoretical basis, in principle, it will be adjusted to the construction, variables as contained in this journal, and in line with this, it is also adjusted to several main things as described in the background section as mentioned above. Therefore, for the type (Burhan Bungin, 2017) the writing of this journal is normative law. In relation to the matter in the above section, matters relating to the methodology are carried out legally research, and by using a qualitative approach. For (Rasyid Rizani, 2020) the theoretical basis is to use the legal theory of living law by Eugen Ehrlich as a grand theory. For the middle theory, Talcott Parsons uses the structural functionalism legal theory, while for the applied theory it uses the happiness law theory (utilitarianism) by Jeremy Bentham.

PROBLEM FORMULATION CONSTRUCTION

In line with the construction of the title, and the variables and things that have been explained in the background section as mentioned in the section above, the construction of the formulation of the problem that will be presented in this journal is: "What is really about Legal Arrangements, Implementation, Constraints Factors?"/Barriers and Solutions in terms of the Role of the Government, Notaries in the Registration of Business Permits through *Online Single Submission (OSS)* ?.

With regard to the above, in the context of carrying out the analysis and/or discussion, then the construction of the problem formulation in question, for further analysis will be carried out, which in essence will be divided into two groups, namely for the first group there will be a discussion related to the construction of Legal Arrangements. , and then in the second group will be analyzed the content related to implementation, constraint factors and solutions related to the efforts of the Role of Local Governments, Notaries in the Registration of Business Licensing through *Online Single Submission (OSS)*.

DISCUSSION

Henceforth, in this section an analysis/discussion will be conducted on the construction of the problem formulation as described in the section above. In the context of carrying out the analysis, it will be carried out in two stages and/or divided into two groups, the analysis/discussion as presented in the section below.

CONSTRUCTION OF LEGAL ARRANGEMENTS THE ROLE OF LOCAL GOVERNMENTS, NOTARIES IN BUSINESS LICENSING THROUGH *ONLINE SINGLE SUBMISSION*

Article 17 of Law Number 23 of 2014: 1. Regions have the right to stipulate REGIONAL POLICIES to carry out government affairs which are under the authority of the region 2. Regions in setting REGIONAL POLICIES must be guided by the NSPK that has been determined by the Central Government 3. In terms of REGIONAL POLICIES that made in the context of administering government affairs which are the authority of the region NOT guided by the NSPK, the Central Government cancels the regional policy 4. If within a period of 2 (two) years, the Central Government has not determined the NSPK, the Regional Government administrator carries out government affairs which are the authority of the region. A number of existing regional regulations in the regencies/municipalities show that most of the permits, especially those under the authority of the district/city governments, are in the hands of the regent or mayor, while a number of other regulations have the authority to handle permits left to technical agencies. According to Law Number 30 of 2004 Article 8 paragraph (1) that there are several reasons or factors for the dismissal of a Notary from his position, namely as follows: 1) A Notary resigns or is honorably dismissed from his position due to: a) death; b) has reached the age of 65 (sixty five) years; c) own request; d) mentally and/or physically unable to carry out the duties of a Notary position continuously for more than 3 (three) years; or e) holding concurrent positions as referred to in Article 3 letter g. 2) The age provision as referred to in paragraph (1) letter b may be extended until the age of 67 (sixty seven) years taking into account the health of the person concerned.

In establishing a company, business actors must first make a deed of establishment to a notary. Based on Article 1 point (7) of the Law on Notary Positions, a notary deed is an authentic deed made by or before a notary according to the form and procedure stipulated in this law. In addition to the obligations that must be carried out by a notary, there are also prohibitions for a notary. Prohibition for a notary as follows: a. Running a position outside the area of office. b. Leaving his/her area of office more than 7 (seven) consecutive working days without a valid reason. c. Concurrently as a civil servant. d. Concurrently serving as a state official. e. Concurrently serving as an advocate. f. Concurrently serving as a leader or employee of a state-owned enterprise, regional-owned enterprise or private enterprise. g. Concurrently serving as a land deed maker and/or class II auction officer outside the notary's domicile. h. Become a substitute notary. i. Doing other work that is contrary to religious norms, decency, or propriety that can affect the honor and dignity of the position of a notary.

The source of company law is that each party creates rules or provisions of company law. These parties can be a legislative body. Those who create laws, parties who enter into agreements create contracts, judges who decide cases create jurisprudence, or the business community that creates habits (conventions) in business activities. So, company law consists of rules or provisions that are spread out in legislation, contracts, jurisprudence, and customs (conventions) that become references in business activities. Business entities always have an important role in

improving the economy of a country. The existence of a business entity can be a field for creating jobs and absorbing workers. The opportunity for the community will be wider to get a job and can reduce the unemployment rate in a country. The business entity itself consists of business entities that are legal entities and not legal entities. So every company that is established must register its company. The reflection of legal certainty on the licensing process for investors is shown through Permenkumham Number 17 of 2018 concerning Registration of Limited Partnerships, Firm Partnerships and Civil Partnerships. With the issuance of these regulations, it becomes an opportunity to increase the rate of growth of the Indonesian economy.

State-Owned Enterprises or abbreviated as BUMN (State Owned Enterprises) are the dominant business actors in many developing countries, including in Indonesia. 3 BUMN is one of the actors of economic activity in the national economy based on economic democracy. BUMN has an important role in the implementation of the national economy to realize the welfare of the community. SOEs consist of 2 types, namely Limited Liability Companies (Persero) and Public Companies (Perum). BUMN Persero, namely BUMN in the form of a limited liability company whose capital is divided into shares of which all or at least 51% of the shares are owned by the State whose main purpose is to pursue profits. Meanwhile, BUMN BUMN is a BUMN whose entire capital is owned.

IMPLEMENTATION, CONSTRAINT FACTORS AND SOLUTIONS FOR THE ROLE OF LOCAL GOVERNMENTS, NOTARIES IN REGISTRATION OF BUSINESS LICENSES ONLINE SINGLE SUBMISSION

Paying attention to the content that will be analyzed in this section, substantially there are three contents that must be analyzed, namely regarding Implementation, then the obstacle factors and solutions related to Business Licensing Registration Through Online Single Submission, as further analysis is presented in the section below.

A. Implementation

That the development of national law in the context of realizing a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia must be able to support and guarantee certainty, order, enforcement and protection of laws with the core of justice and truth. National development in the economic field, especially related to the business world through service improvements, especially in the business licensing sector, starting from one-stop integrated licensing services to integrated licensing services through Online Single Submission (OSS). This is an effort that is continuously carried out to improve the welfare and prosperity of the Indonesian people in a fair and equitable manner, as well as to develop community life and the administration of an advanced and democratic state based on Pancasila and the 1945 Constitution of the Republic of Indonesia. a body that forms its will through the tools or organs of the said body, for example its members or administrators through the mouth or hands. What they (organs) decide is the will of the legal entity. While a business entity that is not a legal entity does not need ratification, but in general so far it has been registered or registered at the local District Court according to the domicile and address of the company concerned. This register or registration with the Court is administrative in nature, it does not determine that a business entity is a legal entity or not.

Along with the development of business entities, their existence is growing, there are those in the form of legal entities and business entities that are not legal entities. Legal entity business entities include Limited Liability Companies (PT), Cooperatives which have been regulated in a separate Law, both regarding the requirements and their establishment. While business entities are not legal entities such as Firms and Limited Partnerships/CVs, so far they do not have special regulations that regulate them, but still refer to the Dadang Law (KUHD) and the Civil Code (KUH Perdata). Based on Articles 22 and 23 of the KUHD, that the establishment of the Firm is carried out with an official (authentic) deed, but without the possibility of stating the absence of the deed to a third party and required to register the deed at the Court Registrar.

Trading Business Permits are issued by local governments and are required by individual business actors and business actors who have legal entities. Trade Business Permits are not only needed by large-scale businesses but also small and medium-sized businesses so that their businesses get recognition and approval from the government. This is to avoid problems that can interfere with business development in the future. SIUP is a permit issued by the minister or appointed official to entrepreneurs to carry out business in the trade and services sector. SIUP is given to entrepreneurs, both individuals, firms, CV, PT, cooperatives, BUMN, and so on.

Applications for permits generally have to be made in writing, often by filling out certain forms that have been provided by the agency authorized to issue the permit. The existence of a permit issuance form makes it easier

for the applicant to submit a permit application because the person concerned does not have to compose his own sentence containing the permit application. SIUP is issued based on the domicile of the owner or person in charge of the company. The SIUP of small and medium-sized companies is issued and signed by the Head of the Office of Industry and Trade Level II on behalf of the minister. Meanwhile, SIUP for large companies is issued and signed by the Head of the Level I Regional Industry and Trade Office on behalf of the minister. We can know that the granting of permits or something in the government is an authorized money official in terms of licensing such as state administration officials who are given the authority to administer such permits. And also those who carry out trading business activities are required to obtain a SIUP which is issued based on the company's domicile and is valid throughout the territory of the Republic of Indonesia.

Although it is not an absolute obligation for each company to make adjustments to the licensing of NIB ownership as TDP, it plays a significant role in facilitating the company's business activities. It becomes a problem if during a field inspection, be it a routine inspection or a surprise inspection, it is found that the company in question operates without an NIB. However, it seems that even this is not considered a big problem considering that the sanctions given are just being asked to immediately adjust and complete the company's data. Sooner or later, each PT must adjust Article 3 of its Articles of Association or the intent and purpose of its business activities and the data in AHU online to be able to carry out

B. Constraint Factor

Related content and obstacles/obstacles, in principle, is something that is not good content and it is confirmed that at the same time (Rosmidah, 2010) is an inhibiting factor, especially in the context of the Role of Local Governments, Notaries in Registration of Business Permits through Online Single Submission. In general, these obstacles/obstacles. One year running, the implementation of the Online Single Submission (OSS) is still considered to have many shortcomings. This program was officially launched in July 2018, with the hope of providing ease of doing business, especially in terms of licensing to investors who want to invest in all regions of Indonesia. As a legal umbrella, the government issued PP No. 24 of 2018 concerning Electronically Integrated Business Licensing Services. The concept carried out in this PP is to change the regime. Because the spirit is ease, it is enough for business actors to enter the file and choose the type of business and the type of license that is already available at OSS, then the file will be distributed to all regions in Indonesia. But in fact the implementation of OSS is not as easy as imagined. The OSS application is considered incomplete in providing the types of businesses and permits in Indonesia, and the problem is that the system is not yet fully integrated with the regions. Some of these obstacles were found by the Monitoring Committee for the Implementation of Regional Autonomy (KPPOD).

There is disharmony between the rules, standards, procedures and criteria (NSPK) against PP OSS, for example NSPK for Industry and NSPK for Tourism. As a result, there are additional procedures for fulfilling commitments in the industrial sector. Second, the NSPK is not complete, so the Regional Government (Pemda) decides to use the old regulations and is not in sync with OSS. Third, the substance of the sector NSPK is inadequate. Then the system aspect, the majority of regions have difficulty integrating OSS, the licensing database is still not clarified, the E-Payment feature is not available, not all regions have a Detailed Spatial Plan (RDTR), and there are additional procedures in the K/L application which are actually considered to hinder the process. One of the problems that becomes an obstacle for the development of the Indonesian business world in general. The number of licensing processes that do not have clear procedures, convoluted, not transparent, uncertain time and high costs that must be incurred, not to mention the existence of unofficial levies causing people to often go back and forth from one office to another and from one table to another when it wants to get a permit. This in turn makes the public feel that they are being manipulated by the apparatus without being able to react in the form of demands or complaints, resulting in a bad image for the government's performance and a decrease in trust. The licensing process, for example, must be carried out directly by the community to the agency or unit that issued the permit. The spread of licensing arrangements in various laws and regulations.

In fact, the people who are the target of the implementation of OSS are still considered ineffective and not efficient. This can be proven by various kinds of obstacles, namely First, the lack of socialization aimed at the community. It is known that the OSS licensing service aims to provide convenience in managing permits quickly and precisely without having to come directly to the office. Even though the OSS system has been launched, there are still many people who are not familiar with it. Second, the OPD in Blora Regency is still undergoing a one-stop licensing process. Third, the lack of coordination between OPD regarding existing business licenses, if there is lack of coordination then in managing licensing will experience difficulties and be hampered. Fourth, the internet network is not evenly distributed in Blora Regency, so it is difficult for people to take care of licensing online. Fifth,

facilities and infrastructure as well as human resources are not sufficient to support the successful use of the OSS system.

C. Solution

In this section, an explanation related to the form and/or construction of a solution design will be presented for the efforts of obstacles/obstacles in the registration of business licenses through Online Single Submission. The first solution that can be offered to improve the performance of the OSS system is to carry out socialization and education to stakeholders, ranging from the government to the private sector, and the general public on an ongoing basis because there are still many OSS users who do not understand the mechanism of the OSS system. The second solution that can be offered is to provide active assistance to business actors in the use of the OSS system and related systems such as PTSP along with strengthening the Ease of Business Task Force in the Regions. The government must be more active in picking up the ball, not just waiting for action from the business actors themselves. The third solution is to carry out business licensing reforms more deeply. It is undeniable that OSS was born from the desire of President Joko Widodo to prepare Indonesia to be more competitive in the era of disruption.

Through the *Online Single Submission (OSS)*, the business licensing process that used to be done manually can now be done online. Even for the management is free of charge and the process only takes a few minutes. The licensing process, which has switched from offline to online, is expected to provide convenience to the public, especially SMEs. Therefore, the government issued an OSS licensing registration system so that Indonesian SMEs can more easily and practically establish their business and not be hampered by business licenses. Then OSS can also facilitate business people to interact with all partners in order to get permits safely, quickly, and in a predetermined time, facilitate business people in conducting detailed exercises and handling licensing issues in one place, facilitating business people to store licensing data in one business identity (NIB). Then also carry out socialization intensively to our community, especially the people of Batam City so that if you want to register a business permit, you already understand the steps that must be done, although sometimes you still find those who don't know much about current technology.

CONCLUSIONS AND RECOMMENDATIONS

1. CONCLUSIONS

In this concluding section, the time has come to present conclusions and at the same time suggestions from all analysis and/or explanation constructions as presented by the author in the section above, the conclusions and suggestions are further presented in the section below.

1. In the Indonesian economy, the majority of business entities are business entities in the form of small businesses, which are generally non-legal entities in the form of partnerships run by small business actors. Considering this form of business is a form that is quite in demand by small and medium entrepreneurs. Partnership companies can have the legal form of Firm (Fa) and Limited Partnership (CV) which are regulated in the Commercial Code (KUHD). The activities of the business world with all its aspects are very important to play a role in the framework of the development of the country, especially the development of the economic sector. Business entities are elements of economic actors who play an important role in industrial and trade activities. Along with the development of business entities, their existence is growing, some are in the form of legal entities and business entities that are not legal entities. Along with the development of business entities, their existence is growing, there are those in the form of legal entities and business entities that are not legal entities. Legal entity business entities include Limited Liability Companies (PT), Cooperatives which have been regulated in a separate Law, both regarding the requirements and their establishment. While business entities are not legal entities such as Firms and Limited Partnerships/CVs, so far they do not have special regulations that regulate them, but still refer to the Dadang Law (KUHD) and the Civil Code (KUH Perdata). Based on Articles 22 and 23 of the KUHD, that the establishment of the Firm is carried out with an official (authentic) deed, but without the possibility of stating the absence of the deed to a third party and required to register the deed at the Court Registrar. Firm registration is carried out by registering the firm's deed in the register at the Registrar's Office of the District Court.
2. Trading Business Permits are issued by the regional government and are required by individual business actors and business actors who have legal entities. Trade Business Permits are not only needed by large-scale businesses but also small and medium-sized businesses so that their businesses get recognition and approval

from the government. This is to avoid problems that can interfere with business development in the future. SIUP is a permit issued by the minister or appointed official to entrepreneurs to carry out business in the trade and services sector. SIUP is given to entrepreneurs, both individuals, firms, CV, PT, cooperatives, BUMN, and so on. In the context of accelerating and increasing investment and business, business licenses issued by ministries/agencies and local governments to start, implement and develop businesses and/or activities, need to be reorganized so that they become supporters and not vice versa become obstacles to business development and/or activities. Restructuring is carried out on the service system and regulations in accordance with the demands of the business world, technological developments, and global competition. Restructuring the service system is carried out especially at PTSP. This is because based on Article 25 paragraph (4) of the Investment Law, an investment company that will conduct a business and/or activity is required to obtain a permit in accordance with the provisions of the legislation from the agency that has the authority, unless otherwise stipulated in the law. Then in paragraph (5) it is regulated that the service for the permit to conduct the business and/or activity is carried out through PTSP.

2. SUGESTION

1. Socializing intensively about the Online Single Submission (OSS) registration process so that all people from various elements, especially in Batam City can understand step by step in managing business licensing through online.
2. It is hoped that the Batam City One Stop Integrated Service and Investment Service (DPMPTSP) will further optimize performance in providing assistance service facilities to tourism business actors in the form of guidance on the use of the OSS system so that business actors can get effective and efficient services.
3. It is hoped that the Batam City One Stop Integrated Service and Investment Service (DPMPTSP) will optimize monitoring and evaluation on a regular basis in order to improve the implementation of the OSS system in Batam City.

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