



Legal Evaluation of the Implementation of Licensing for Small and Medium Enterprises From the Perspective of Legal Certainty (Majalengka Regency Case Study)

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ABSTRACT

The regulations governing business licensing procedures for Indonesia's small business sector encounter obstacles in implementation and adherence to applicable laws. Law Number 6 of 2023 is a legislative foundation anticipated to streamline the licensing process for small and medium enterprises. However, there are still obstacles to understanding and implementing it. The problems we studied in this study include how to regulate the legal arrangements regarding business license procedures for the small and medium business sector, what the legal consequences are for violations of business license procedures, and how the implementation of Law No. 6 of 2023 on the growth of small and medium enterprises.

This study examines the regulation of business licensing procedures for small and medium firms, the legal ramifications of violations of these procedures, and their effects on expanding the small and medium company sector. This study employs a normative juridical legal method, using descriptive analysis of pertinent rules and interviews with important stakeholders as supplementary data sources. This study aims to elucidate the efficacy of licensing requirements for small and medium enterprises and its impact on economic development within the sector.

INTRODUCTION

Small and Medium Enterprises (SMEs) are a fundamental foundation of the Indonesian economy, playing a key and strategic role overall. Micro, Small, and Medium Enterprises (MSMEs) in Indonesia account for around 60.5% of the Gross Domestic Product (GDP) and employ over 90% of the national workforce (Ministry of Finance, 2022). Furthermore, MSMEs contribute to the local economy by establishing new economic hubs that are uniformly distributed across the nation, utilizing local resources to enhance income and community welfare (Teewan, 2023) through creative and innovative concepts, particularly in the culinary, fashion, and handicraft sectors.

However, in their journey, SMEs often face various obstacles, including the complexity of regulations that often change, making business actors feel confused and hesitant to take care of permits independently. The lack of socialization and assistance from local governments is also a factor that worsens this situation. In some places, illegal levy practices are still found, which hinder SMEs' enthusiasm in taking care of the legality of their business. Not only that, the limitation of human resources in licensing agencies also impacts the slow service and the lack of optimal technical assistance that should be provided to small business actors. This circumstance has led numerous SMEs to opt for the informal sector. Given the diversity of business activities, it is imperative to establish regulations governing licensing for these various enterprises. In response to this issue, the Indonesian government has implemented a new policy for Online Single Submission (OSS) licensing through Law No. 11 of 2010 concerning Job Creation, Government Regulation (PP) No. 5 of 2021, and Trade Minister Regulation No. 21 of 2023. Moreover, certain regulations concerning SME licensing are governed by the stipulations of relevant legislation. The Micro and Small Business Permit (IUMK) is established under Law Number 6 of 2023 about Job Creation (LN RI Th 2023 No 41).

Article 176 of the Job Creation Law modifies Article 350 of the Local Government Law, stipulating that regional heads must deliver Business Licensing services in accordance with applicable laws, regulations, and the norms, standards, procedures, and criteria established by the Central Government. The central government establishes all regulations regarding business licensing services in the derivative regulations of the Job Creation Law, specifically Government Regulation No. 7 of 2021 (State Gazette of the Republic of Indonesia Year 2021 No. 17).

Government Regulation Number 7 of 2021 delineates the procedure for licensing Micro, Small, and Medium Enterprises (MSMEs). Article 43, paragraph (1) stipulates that "The Central Government administers a unified licensing system for Micro and Small Enterprises using an electronically integrated Business Licensing system." (Ministry of Investment/BPKM, 2021) This indicates that, according to this legal framework, the authority of the SME licensing system is centralized within the central government.

This policy aims to simplify and accelerate business licensing procedures, which is expected to facilitate procedures for small and medium enterprises and

increase their competitiveness. However, implementing OSS in the field still faces various obstacles, including in the digital-based licensing process, as internet access is still uneven in various regions, especially in remote areas (Suharto, 2022). So many small business actors have difficulty accessing online licensing services due to limited networks and technological infrastructure. In addition, SMEs in rural areas are left behind because they do not have adequate facilities and knowledge to access them.

From the existing problems and obstacles, we conducted research and took case studies in Majalengka Regency and obtained data on SMEs in Majalengka Regency where, in 2024 in Majalengka Regency. It was recorded that significant growth in the number of MSMEs reached 74,691 units. Meanwhile, the number of business actors in Majalengka Regency who are licensed or have a NIB (Business License Number) is only 4,096. From the data findings, there are still 70,595 MSME units that do not have a NIB, which is a problem in risk-based business licensing (Interview, KUKM Office of Majalengka Regency, Ely Emiati S.M., Wednesday, May 14, 2025).

Thus, this research is important to determine the implementation of legal regulations regarding business license procedures for the small and medium enterprises (SMEs) sector and the legal consequences for violators. This is expected to make a positive contribution to law enforcement regarding business license procedures.

Problem Formulation

1. How is the implementation of legal regulations regarding business license procedures for the small and medium business sector?
2. What are the legal consequences for violations of business license procedures?

RESEARCH METHODS

1. Types of Research

This research employs normative juridical legal methodologies. A normative study examined the relevant laws and regulations concerning the MSME licensing system through the lens of legal certainty (Supamto & Mamuju, 2021).

2. Data Source

This study uses two types of data sources, namely:

- a. Secondary Data - obtained from:
 - b. Laws and regulations related to MSME licensing.
 - c. Supporting Data - obtained through interviews with related parties, such as:
 - Officials at the Office of National Unity and Politics (Kesbangpol) Majalengka.
 - Micro, Small, and Medium Enterprises (MSMEs) in Majalengka.

3. Data Collection Techniques

The following methods collect data:

- a. Literature Studies, namely by examining laws and regulations and academic literature.
- b. The interview was by interviewing the Investment and Integrated Services Office (DPMPTSP) and the Cooperative and SME Manpower Office.

4. Data Analysis Techniques

The data obtained will be analyzed using a qualitative analysis method with a descriptive-analytical approach (Marzuki, 2017), namely:

- a. Data Reduction - filtering and selecting relevant information from the research results.
- b. Data Presentation - compiling the results of the analysis in the form of a systematic description.
- c. Drawing Conclusions - formulating conclusions based on research findings and providing policy recommendations.

LITERATURE REVIEW

Legal Certainty Theory

Indonesia is governed by law, as seen by its legal framework. Furthermore, nearly all facets of communal existence are governed by explicit legislation in Indonesia. The government utilizes legislation to regulate and organize society, enhancing social order. The law must encompass three essential elements, one of which is the idea of legal certainty.

Legal certainty is achieved when a regulation is finally established and promulgated, as it is articulated clearly and logically. It is unequivocal, so eliminating ambiguity and demonstrating logical coherence. It establishes a normative system alongside other norms to avoid clashes or conflicts of norms. Legal certainty denotes laws' unequivocal, stable, consistent, and consequential application, immune to subjective influences. Certainty and justice are not merely ethical imperatives but factual attributes of the law. An ambiguous and inequitable law is not merely a deficient law. In addition to the established normative definitions, legal certainty encompasses several hypotheses proposed by specialists, including:

Legal certainty as articulated by Gustav Radbruch

Gustav Radbruch articulated that his theory of legal certainty encompasses four primary issues intricately linked to the notion of legal certainty itself, which are as follows:

1. Law is a positive thing, meaning that positive law is a law and regulations.
2. The law is based on facts, meaning that the law is made based on reality.
3. The facts contained or listed in the statute must be clearly formulated to avoid misinterpretation or interpretation and can be easily enforced.
4. Positive laws cannot be easily changed.

Gustav Radbruch's perspective on legal certainty is predicated on his understanding of the concept itself. He contended that legal certainty is derived from laws, or more precisely, from statutes and regulations (Radbruch, 1946).

Legal certainty according to Jan M. Otto

In addition to Gustav Radbruch, Jan M. Otto expressed his opinion on the legal certainty needed in the following cases.

1. Legal certainty provides clear and unambiguous legal rules, consistent and available or accessible.
2. The state of law must be the giver of state power, and it has three qualities: clear, consistent, and easy to obtain.
3. The rule of law can be applied and enforced consistently by various authorities or government bodies.
4. Most citizens have the principle that they can approve the content of a legal product. Therefore, their behavior also adjusts to the regulations issued by the government.
5. Judges are inherently independent, meaning they do not comment on the consistent application of the rule of law when a judge can observe the law. Judicial decisions can be implemented concretely.

Jan M. Otto posits that the five prerequisites of legal certainty demonstrate that such certainty can be attained when the law's substance addresses the demands of the broader community. He also argued that legal certainty can have a more legal dimension. However, it is limited to the five situations described above and must be followed by law enforcement agencies whose job it is to ensure legal certainty for order and justice in people's lives.

Legal Certainty in Business Licensing

Legal certainty is a foundational element in the Indonesian legal framework designed to ensure clarity and predictability for corporate entities. Gustav Radbruch posits that legal certainty has three fundamental elements: fairness, utility, and certainty.

In MSME licensing, legal certainty is crucial to ensure that existing regulations can be applied consistently and do not harm business actors.

Some of the problems in the legal certainty of MSME licensing include:

1. Uncertainty in OSS Implementation: While the system aims to simplify licensing, technical and bureaucratic constraints still slow down the process.
2. Lack of Socialization of New Regulations: Due to limited information, many MSME actors do not fully understand the changes in regulations.
3. Differences in Implementation in Regions: Licensing policies often differ in each region, which causes uncertainty for business actors.

Regulatory Framework Governing MSME Licensing in Indonesia

Some of the main regulations that are the legal basis for MSME licensing in Indonesia include:

1. Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law (Perpu) Number 2 of 2022 concerning Job Creation becomes a law → encourages the development of the quality of cooperatives and MSMEs.
2. Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises → regulates the definition, classification, and rights of MSMEs.
3. Law Number 11 of 2020 concerning Job Creation → Simplifying business licensing with a risk-based OSS system.
4. Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Licensing → Classifies business licenses according to the degree of business risk (low, medium, high).
5. Presidential Regulation No. 98 of 2014 about Licensing for Micro and Small Enterprises
→ Establishes protocols for the issue of business licenses for MSMEs at the regional level.

DISCUSSION

Implementation of Legal Regulations Regarding Business License Procedures for Small and Medium Enterprises in Majalengka Regency

Business licensing is a legal instrument used by the government to control, supervise, and provide legality to business actors in running their businesses. In the context of MSMEs, licensing is an important aspect to ensure legal certainty and access to supporting facilities such as financing and business assistance.

Law Number 11 of 2020 about Job Creation has significantly reformed the company licensing system through the use of Online Single Submission (OSS), designed to streamline the licensing procedure. Risk-based licensing regulated in Government Regulation No. 5 of 2021 is also a new legal basis in determining the classification of permits based on the level of business risk.

In the doctrine of legal certainty, a regulation must ensure clarity, consistency, and safeguarding for business entities. However, from the results of the study, it was found that several aspects are still obstacles in the implementation of legal certainty for MSME licensing, namely:

1. Inconsistency between regulations and practice in the field

The Job Creation Law and Government Regulation No. 5 of 2021 underscore that risk-based licensing is intended to expedite permit processing. Nonetheless, at the regional level, disparities in policies among agencies result in discrepancies in implementation.

2. Lack of socialization and coaching for MSMEs

MSME participants frequently lack sufficient information regarding regulatory modifications, resulting in numerous unlicensed MSME entities, which contravenes Law Number 20 of 2008 pertaining to Micro, Small, and

Medium Enterprises. This Law mandates the Government to offer guidance to MSMEs, encompassing socializing and educational initiatives.

3. There is still illegal levies in the licensing process

From the results of interviews with several MSME actors, indications were found that there are still illegal levies in the management of permits at the regional level, This contradicts the objective of Law No. 11 of 2020 for Job Creation, which seeks to bridge the gap in bureaucratic processes through the use of digital and transparent permit procedures.

As for efforts to improve the licensing system for MSMEs based on research findings, there are several recommendations that can be applied to increase the effectiveness and legal certainty in MSME licensing, including:

1. Strengthening Socialization and Education. Limited human resources in licensing agencies also impact slow service and less-than-optimal technical assistance that should be provided to small business actors (Ministry of Cooperatives & MSMEs, 2023).
2. Simplification of Procedures at the Regional Level. Licensing policies in all regions must be standardized so that differences in implementation do not confuse business actors.
3. More Inclusive Digitalization. The government needs to ensure more equitable access to technology, especially for MSMEs in remote areas that have difficulty using OSS.
4. Strict Supervision of Illegal Levies. Transparency and accountability in permit management need to be strengthened to avoid illegal levy practices that are detrimental to MSME actors.

Legal consequences for violations of business license procedures

The legal consequences of business license procedure violations in Indonesia can seriously impact administrative, civil, and criminal business actors. Here's the explanation:

Administrative Sanctions

Violations of business license procedures are generally first subject to administrative sanctions, including:

1. Written warning from the authorized agency.
2. Temporary cessation of company operations.
3. Revocation of business license/NIB (Business Identification Number).
4. Administrative penalties under the stipulations of statutes and regulations.

Legal basis: Law No. 11 of 2020 concerning Job Creation. Government Regulation No. 5 of 2021 concerning implementing Risk-Based Licensing (JDIH Kemkominfo, 2021).

1. Civil Sanctions. The aggrieved party (e.g., the public or consumers) can file a civil lawsuit to seek compensation. A business agreement can be considered legally defective if it is done without a valid permit.
2. Criminal Sanctions. Business actors may be imprisoned or fined in certain cases (e.g., businesses conducted without a permit in high-risk areas such as health, environment, or safety). The Environment, Health, and Consumer

Protection Law can provide a criminal basis if the violation causes harm or endangers the community.

3. Reputational Damage and Business Risk. Business actors who do not comply with licensing procedures can lose the trust of business partners, investors, and consumers. This can hinder financing, business expansion, or participation in procuring goods and services. If MSMEs have a specific case or want to see examples of jurisprudence or certain types of businesses, I can help in more detail.

CONCLUSIONS AND SUGGESTIONS

Based on the results of research on the licensing system for MSME actors from the perspective of legal certainty, it can be concluded that. Risk-based licensing systems through OSS have been implemented in some areas, but have not been fully effective. There are still obstacles in implementation, especially the lack of understanding of MSME actors regarding licensing procedures, limited access to technology, and a lack of socialization from local governments. There are still several obstacles to legal certainty in MSME licensing. Inconsistencies between regulations and practices in the field, differences in policies between agencies, and illegal levies in the licensing process hinder legal certainty for MSME actors. Therefore, improvements to the licensing system are urgently needed to increase legal certainty for MSMEs. The government must strengthen socialization, simplify procedures, digitalize more inclusively, and strictly supervise illegal levies so that the licensing system can run more effectively and benefit business actors.

The implementation is marred by numerous violations resulting in legal repercussions, specifically sanctions categorized into two types: administrative sanctions, which include written warnings, government coercion, administrative fines, business suspensions, and/or revocation of business licenses. In addition to the criminal punishments outlined in Article 40 of Law No. 20 of 2008 regarding criminal penalties and the nominal fines required, Law No. 11 of 2020 concerning Job Creation and PP No. 5 of 2021 regarding the Implementation of Risk-Based Licensing are also applicable.

SUGGESTION

As a step to improve the MSME licensing system, here are some recommendations that can be implemented:

1. Increase socialization and education for MSME actors.

Local governments need to hold regular training and technical guidance so that business actors better understand the latest licensing procedures and regulations.

2. Simplify and speed up the licensing process.

The government needs to ensure that the OSS system really provides convenience for MSME actors by eliminating unnecessary bureaucracy and clarifying the mechanism for applying for business licenses.

3. Ensure more equitable access to technology.

Efforts are needed to improve digital infrastructure in areas that are still experiencing difficulties in accessing OSS, such as providing offline-based assistance services for MSMEs in rural areas.

4. Increase transparency and supervision in the management of permits.

Local governments need to take strict action against illegal levy practices and strengthen the supervision mechanism so that the licensing process runs in accordance with the principles of legal certainty and justice.

5. Encourage collaboration between the government, academics, and business actors.

Universities, research institutions, and MSME associations can play a role in providing input and research-based solutions to increase the effectiveness of business licensing policies.

BIBLIOGRAPHY

Books and Journals

Jan M. Otto in M. Solly Lubis, *Law and Its Role in Society* (Jakarta: PT Raja Grafindo Persada)

Marzuki, P. M. (2017). *Legal Research*. Jakarta: Kencana.

Radbruch, G. (1946). *Legal philosophy*. Stuttgart: Koehler.

Soekanto, S., & Mamudji, S. (2001). *Normative Law Research: A Brief Overview*. Jakarta: Raja Grafindo Persada.

Suharto, B. (2022). "Implementation of the OSS System in the Granting of Business Licenses for MSMEs in Indonesia." *Journal of Economic and Business Law*, 10(2), 150-165.

Teewan Journal. (2023). *Analysis of the Contribution of the MSME Sector to National Income in Indonesia*

Laws and Regulations

Indonesia. Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises.

Indonesia. Law Number 11 of 2020 concerning Job Creation.

Indonesia. Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Licensing.

Indonesia. Presidential Regulation Number 98 of 2014 concerning Licensing for Micro and Small Enterprises.

Online Resources

Ministry of Investment/BKPM. (2021). Risk-Based Single Submission (OSS) Online Use Guidelines. Accessed from www.bkpm.go.id

Ministry of Cooperatives and SMEs. (2023). Strategies for Strengthening MSMEs in the Context of Improving Business Legality. Accessed from www.depkop.go.id

IKA UMMETRO. (2023). Business Ethics Violations That Must Be Avoided. Accessed from www.ika.ummetro.ac.id

Ministry of Finance of the Republic of Indonesia (2022), Contribution of MSMEs in the Indonesian Economy. Accessed from. <https://djpb.kemenkeu.go.id>

JDIH Ministry of Communication and Information - Government Regulation Number 5 of the Year (2021) Retrieved from: <https://jdih.komdigi.go.id>