



## Act No. 6 of 2023 Effect on Management Authority of Coastal Areas and Small Islands

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**Abstract.** *The presence of the state in people's lives today can be found in various sectors of life in society. The emergence of the notion of the welfare state requires that the state intervene in efforts to realize the welfare of its people. One of the fields in which the state is present in efforts to realize the welfare of its people is the management of Coastal Zone and Small Islands. The utilization and management of water resources in the Coastal Zone and Small Islands have undergone developments in line with changes in the legal framework. This research which uses normative juridical research methods with a statutory approach, discusses the development of regulations regarding the basis for the management and utilization of water resources in the Coastal Zone and Small Islands. The results of the study show that the differences in the basic forms of utilization and management of water resources in the Coastal Zone and Small Islands from what was originally in the form of rights to permits and changed back to business permits and the differences in parties having the authority to grant these rights have significant implications.*

**Keywords:** Authority; Coastal; Islands; Permits.

### 1. Introduction

The state is defined as an organization of social life that exercises sovereign power on behalf of the people, is located in a certain territory, and is politically organized under one government.<sup>1</sup> The countries in the world today adhere to a certain form

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1 Cornelis Djelfie Massie, *Pengantar Hukum Kawasan Perbatasan dan Pulau-Pulau Terluar Indonesia*, Yogyakarta, 2019, Pustaka Refrensi, p. 11.

of state, which generally forms into two types of state forms, namely the federal state and the unitary state. Indonesia in its constitution, precisely in Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) states that "The State of Indonesia is a Unitary State in the form of a Republic". Nomensen Sinamo explained that "A unitary state is a country which only consists of one state, one government, one head of state, and one legislative body that applies to all regions in the country's territory". The unitary state is often also referred to as a unitary state or a monocentric state because it is centered on one government power (Central Government) that applies to all areas within the single state.<sup>2</sup>

Implementation of Government in Indonesia is divided into a division of powers which is understood as a vertical division of powers. This term refers to the rules contained in Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which divides the territory of Indonesia into provincial areas and regency/municipal areas within the province. In this context of the division of powers, the term "territorial division of power" is used.<sup>3</sup> The vertical division of powers in Indonesia as explained above has led to a hierarchical relationship between the Government and the Regional Governments below it.

The division of tasks regulated for the Government and Regional Governments related to the implementation of government affairs, then divided into three types, namely "absolute government affairs and concurrent government affairs, and general government affairs". In the Regional Government Law, it is stated that "absolute government affairs are government affairs which are entirely the authority of the Central Government. General government affairs are government affairs that become the authority of the President as the head of government and concurrent government affairs which are divided based on their authority between the Central Government and the regions and between the Regional Government and other Regional Governments. Included in the fields whose affairs are shared between the Central Government and Regional Governments are the authority to regulate and manage and utilize water resources in coastal areas and small islands.

In its development, the management and utilization of coastal and small island water resources in Indonesia have been regulated by various laws and regulations. The previous law that regulates Regional Government, Act No. 32 of 2004 concerning Regional Government also has regulations regarding regional authority to manage resources in the sea area. The authority in question is the authority in

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2 Nomensen Sinamo, *Perbandingan Hukum Tata Negara*, Jakarta, Jala Permata Aksara, 2002, p. 29.

3 Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Jakarta, Rajawali Pers, 2015, p. 25.

terms of "management of resources in the sea area as far as 12 nautical miles as measured from the coastline towards the high seas and/or towards the archipelagic waters for the Regional Government of the Province, with the distribution of 1/3 of it being the authority of the District Government/ The city is 0-4 miles out to sea". Then the Regional Government Law changed, Act No. 23 of 2014 came to replace the previous Local Government Law, namely Act No. 32 of 2004, making "Regency/City Regional Governments no longer have the authority to manage sea areas". Furthermore, Ferina in her research stated that "District/City Regional Governments only have authority in the field of capture fisheries and aquaculture". The arrangements are further outlined in the Regional Government Law which also regulates matters concerning the management of the marine and coastal sectors as well as small islands, whose division of affairs falls under the authority of the Provincial Government.<sup>4</sup>

Management and utilization of natural resources in coastal areas and small islands in Indonesia are then specifically regulated in Act No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands which has been amended through Act No. 1 of 2014 concerning Amendments to Act No. 27 of 2007 Concerning the Management of Coastal Areas and Small Islands (hereinafter written as WP3K Management). In its development "Act No. 27 of 2007 Concerning WP3K Management" has undergone two changes in its contents. The first change, as mentioned above, is with Act No. 1 of 2014 concerning Amendments to Act No. 27 of 2007 concerning the Management of WP3K. Then with the enactment of Act No. 6 of 2023 Concerning the Stipulation of Government Regulation instead of Act No. 2 of 2022 concerning Job Creation to become a Law (later written the *Ciptaker* Law) there are several provisions in Act No. 27 of 2007 concerning Management of WP3K also changed. One of the amended provisions in Act No. 1 of 2014 concerning Amendments to Act No. 27 of 2007 concerning the Management of WP3K as well as in the *Ciptaker* Law are provisions regarding the licensing mechanism for the management and utilization of coastal areas and small islands resources related to the authority to manage water resources.

The entry into force of the *Ciptaker* Law created a new norm where now the Wp3k management arrangements are regulated centrally. Arrangements regarding permits for the utilization of aquatic resources in Wp3k itself have experienced developments in various laws and regulations that regulate them. In its development, the basic forms of legality for the management and utilization of

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4 Ferina Ardhi Cahyani, Djoko Wahyu Winarno, Albertus Sentot Sudarwanto, "Upaya Pengelolaan Wilayah Pesisir Dalam Mewujudkan Perlindungan Dan Konservasi Di Taman Pesisir Ujungnegoro-Roban Kabupaten Batang", *Jurnal Hukum Dan Pembangunan Ekonomi*, Vol.6 No.2, 2018, p. 211.

coastal resources and small islands have their characteristics. In addition, there are also different legal implications for each form of a basis for rights to use coastal resources and small islands. Based on this background, the author wants to explore what changes have occurred in the *Ciptaker* Law relating to the Management of coastal areas and small islands, with the title: "Act No. 6 Of 2023 Effect on Management Authority of Coastal Areas and Small Islands". With a discussion of changes in authority and legal implications in licensing.

## 2. Research Methods

The author in this study uses a normative juridical method, which is a normative legal research method (legal research) or also called doctrinal legal research and can be called library law research or secondary data research. This research is also analytically descriptive, therefore the data needed is secondary data.<sup>5</sup> This normative juridical method starts from an approach to laws and regulations that concern the issues under study,<sup>6</sup> namely those related to the *Ciptaker* law and WP3K Management arrangements (statute approach).

## 3. Result and Discussion

### 3.1 Changes in Authority for Management of Coastal Zone and Small Islands.

Dahuri in his book entitled "Integrated Management of Coastal and Marine Resources", explains that, "Until now there has been no standardized definition of coastal areas. However, based on the general agreement in the world that the coastal area is a transitional area between land and sea. When viewed from the coastline, a coastal area has two kinds of boundaries, namely boundaries parallel to the coastline (longshore) and boundaries perpendicular to the coastline (cross-shore)".<sup>7</sup>

The definition of WP3K management in the WP3K Management Law "is a series of processes to coordinate planning, utilization, supervision, and control". The series of processes as stated in "Act No. 1 of 2014 on the Amendment to Act No. 27 of 2007 on the Management" of WP3K is explained as follows:

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5 Suteki, Galang Taufani, *Metode Penelitian Hukum (Filsafat, Teori dan Praktik)*, Depok, Rajawali Pers, 2018, p. 216.

6 Ronny Hanitijo Soemitro, *Metode Penelitian Hukum dan Yurimetri*, Jakarta, Ghalia Indonesia, 1988, p. 98.

7 Dahuri, *Pengelolaan Sumber Daya Wilayah Pesisir dan Lautan Secara Terpadu*, Jakarta: PT. Pradnya Paramita, 2001, p. 7.

a. Planning. "Planning is the initial stage in the management of coastal areas and small islands". Furthermore, "in coastal area management activities, there are several spaces and are divided into several times according to the stages. Coastal Zone and Small Island Management Planning consist of (1) Strategic Plan for Coastal Areas and Small Islands, (2) a Coastal and Small Island Zoning Plan, (3) a Coastal and Small Island Management Plan, (4) an Action Plan for Coastal and Small Island Management".

b. Utilisation. "Every person who carries out spatial utilization of part of the Coastal Waters and the use of part of the small islands permanently must have a Location Permit which is the basis for granting a Management Permit". "Utilisation of small islands and surrounding waters shall be carried out based on ecological and economic unity in a comprehensive and integrated manner with nearby large islands". Article 17 paragraph (2) of the WP3K Management Law states that "The granting of Location Permits shall consider the preservation of coastal and small island ecosystems, communities, traditional fishermen, national interests, and the right of peaceful passage for foreign vessels".

c. Surveillance. To ensure the implementation of integrated and sustainable management of WP3K, "supervision and/or control of the implementation of provisions in the field of Coastal Zone and Small Island Management shall be conducted by certain officials who are authorized in the field of WP3K management by the nature of their work and are given special police authority as mentioned in paragraph (2) of Article 36, namely certain civil servant officials who handle the field of WP3K management". The Government and Regional Governments in the context of implementing supervision and control of Coastal Zone and Small Island Management shall "conduct monitoring, field observation, and/or evaluation of the planning and implementation. The community can also participate in the supervision and control of the Management of Coastal Areas and Small Islands".

d. Control. In exercising control "The Government is obliged to carry out Accreditation of WP3K Management programs. This authority may be delegated to the Regional Government. Supervision and control are carried out (1) to identify any deviations in the implementation of strategic plans, zoning plans, and management plans, and the implications of these deviations for changes in the quality of coastal ecosystems; (2) to encourage the utilization of resources in WP3Ks by their coastal management plans; (3) sanctions against violators, whether in the form of administrative sanctions such as cancellation of permits or revocation of rights, civil sanctions such as the imposition of fines or compensation; or criminal sanctions in the form of detention or confinement".



Talking about the development of regulation of authority in the management of coastal areas and small islands (wp3k), it is necessary to see from the beginning how this authority is granted through a law. After the 1945 amendment of the 1945 Constitution of the Republic of Indonesia, there was one concept that was applied in Indonesia, namely Regional Autonomy. One of the laws that guarantee this is Act No. 32 of 2004 concerning Regional Government. In this Law, Regional Governments, both Regency/City Regional Governments and Provincial Regional Governments are given a mandate in the form of authority to manage resources in the sea area for 12 miles, with the distribution of 0-4 miles becoming the authority of Regency/City Regional Governments, and the rest becomes Provincial Government Authorities. The above arrangements are contained in Article 18 of Act No. 32 of 2004.<sup>8</sup> The granting of authority by the Central Government to regions related to maritime affairs and management of sea space in Article 18 of Act No. 32 of 2004 is a further implementation of the provisions of Article 33 paragraph (3) of The 1945 Constitution of the Republic of Indonesia. Article 18 of Act No. 32 of 2004 is a marker of decentralization in the marine and coastal sector which is obtained through statutory regulations for regional governments.

The development of regulation on the management authority of wp3k occurred because there was a change in the law that regulates it. The Law on Regional Government changed, from Act No. 32 of 2004 to Act No. 23 of 2014. With the amendment to the Law on Regional Government, there have been changes, especially in this discussion, the change regarding the authority to manage natural resources of sea power. This change regarding authority is emphasized in several articles in the new Regional Government Law, such as Article 14 Paragraph (1) which stipulates that

"Implementation of Government Affairs in the fields of forestry, maritime affairs, and energy and mineral resources is divided between the Central Government and the Provincial Governments".

This article stipulates that management in the marine sector is the authority of the Provincial Government and the Central Government, emphasized in Article 27 paragraph (1), paragraph (2), and paragraph (3) of Act No. 23 of 2014 concerning Regional Government clarifying the authority given to Provincial Government in WP3K Management. This article reads:

"Article 27 Paragraph (1) Provincial regions are given the authority to manage

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<sup>8</sup> Orias Reizal de Rooy, Hendrik Salmon, Reny Heronia Nendissa, Hak Atas Tanah Pada Kawasan Konservasi, Pattimuea Magister Law Review, Vol.1, No1, 2021, p. 102.



natural resources in the sea in their territory".

"Article 27 Paragraph (2) The regional authority of the province to manage natural resources in the sea as referred to in paragraph (1) includes:

a. exploration, exploitation, conservation, and management of marine resources other than oil and natural gas, b. administrative arrangements; c. spatial arrangement, d. participate in maintaining security at sea, And e. take part in defending the sovereignty of the state".

"Article 27 Paragraph (3) The authority of the provincial Region to manage natural resources in the sea as referred to in paragraph (1) is at most 12 (twelve) nautical miles measured from the coastline towards the high seas and/or towards archipelagic waters".

Article 27 of Act No. 23 of 2014 concerning regional government is the legal basis for the Provincial Government in managing its WP3K sea area. The delegation of authority to the Provincial Government regarding the management of coastal areas and small islands is contained in "attachment letter Y concerning the Division of Maritime Affairs and Fisheries Affairs, Sub-Management number 1 concerning Marine, Coastal, and Small Islands" It is stated that "the authority is in the form of:

1. Management of sea space up to 12 miles excluding oil and gas.
2. Issuance of permits and utilization of sea space under 12 miles excluding oil and gas.
3. Empowerment of coastal communities and small islands".

To discuss the development and changes in authority in managing coastal areas and small islands, it is necessary to look at Act No. 27 of 2007 the Management of Coastal Areas and Small Islands. This law has been amended twice, first amended by Act No. 1 of 2014 concerning Amendment to Act No. 27 of 2007 concerning the Management of Coastal Zone and Small Islands. And Second, it is included in the changes to the Job Creation Law.

Based on "Act No. 27 of 2007 concerning Management of WP3K, chapter III of this Law regulates the process of managing WP3K, specifically included in Article 5 explaining the management of coastal areas and small islands including planning, utilization, supervision, and control of human interaction in utilizing natural



resources. Coastal and Small Islands as well as natural processes in a sustainable manner to improve the welfare of the community and maintain the integrity of the Unitary State of the Republic of Indonesia. Then "Article 6 states that the Management of Coastal Zone and Small Islands as referred to in Article 5 must be carried out by integrating the following activities:

a. between the Government and the Regional Government; b. inter-Regional Government;

c. intersectoral; d. between the Government, the business world, and the community;

e. between land Ecosystems and marine Ecosystems; And f. between science and management principles".

Looking at the content in Article 6 letters a and b, the role and authority of the Regional Government in the management of WP3K is the basis for the WP3K Management Law which becomes the legal basis before it is regulated in more detail in the Regional Government Law which regulates Regional Government for the continuation of the division of authority.

The changes that have occurred in the provisions of the latest law are Article 7 of Act No. 27 of 2007 concerning WP3K Management which discusses the planning process for WP3K Management such as:

a. Strategic Plan for Coastal Zone and Small Islands, hereinafter referred to as RSWP-3-K;

b. Zoning Plan for Coastal Zone and Small Islands, hereinafter referred to as RZWP-3-K;

c. Coastal Zone and Small Islands Management Plan, hereinafter referred to as RPWP-3-K; And

d. Action Plan for the Management of Coastal Zone and Small Islands, hereinafter referred to as RAPWP-3-K

This article will then become the beginning of the latest changes in the authority to regulate the management of coastal areas and small islands because in this Law the authority is still in the Regional Government,

Most recently, there is one law made using the Omnibus method, meaning that there are changes to several laws in one legal product in the form of a law. Namely Act No. 6 of 2023 Concerning Job Creation. One of the laws that have changed the Job Creation Law is the Wp3k Management Law. The enactment of the *Ciptaker* Law created new norms in wp3k management regulations, especially in terms of authority and licensing for wp3k management.

Whereas through the *Ciptaker* Law, there is a transfer of authority to manage wp3k from the Provincial Government to the Central Government, especially in terms of licensing in the management of coastal areas and small islands. Changes to the WP3K Management Law are fundamental changes that have a big impact because they concern the authority over the management of the WP3K itself. The *Ciptaker* Law is an attempt at law reform in the context of deregulating several laws to overcome disharmony between one regulation and another, especially in matters relating to licensing in the investment sector and developing potential and accelerating the national economy.

The transfer of authority of the Provincial Government for wp3k management to the Central Government is contained in the amendment to Article 7 of the WP3K Management Law in the *Ciptaker* Law which reads:

Article 7 Paragraph (1) Planning for the Management of Coastal Zone and Small Islands as referred to in Article 5 consists of:

- a. RZ for Coastal Zone and Small Islands, hereinafter referred to as RZWP-3-K;
- b. RZ National Strategic Areas, hereinafter referred to as RZ KSN; And
- c. RZ KSNT.

Article 7 Paragraph (2) The boundaries of the RZWP-3-K planning area as referred to in paragraph (1) letter a, RZ KSN as referred to in paragraph (1) letter b, and RZ KSNT as referred to in paragraph (1) letter c shall be determined by Central government".

Article 7 of the *Ciptaker* Law creates a new norm in terms of authority for the management of coastal areas and small islands, where the authority that is the authority of the Provincial Regional Government together with the Central Government is now fully under the authority of the Central Government. The transfer of authority to regulate WP3K zoning planning from the Provincial Government to the Central Government is accompanied by the removal of the



authority for the wp3k strategic plan along with the wp3k management plan and also the wp3k Management action plan. If you look at the differences between the old and the amended Article 7, it will be like this;

Table 1.

Article 7	Act No. 27 of 2007 Jo Act No. 1 of 2014	Changes in Act No. 6 of 2023
Paragraph (1)	<p>The Management Plan for Coastal Zone and Small Islands as referred to in Article 5, consists of:</p> <ul style="list-style-type: none"><li>a. Strategic Plan for Coastal Zone and Small Islands, hereinafter referred to as RSWP-3-K;</li><li>b. Zoning Plan for Coastal Zone and Small Islands, hereinafter referred to as RZWP-3-K;</li><li>c. Coastal Zone and Small Islands Management Plan, hereinafter referred to as RPWP-3-K; And</li><li>d. Action Plan for the Management of Coastal Zone and Small Islands, hereinafter referred to as RAPWP-3-K</li></ul>	<p>The Management Plan for Coastal Zone and Small Islands as referred to in Article 5 consists of:</p> <ul style="list-style-type: none"><li>a. RZ for Coastal Zone and Small Islands, hereinafter referred to as RZWP-3-K;</li><li>b. RZ National Strategic Areas, hereinafter referred to as RZ KSN; And</li><li>c. RZ KSNT.</li></ul>
Paragraph (2)	<p>Norms, standards, and guidelines for the preparation and planning of the Management of Coastal Zone and Small Islands are regulated by a Ministerial Regulation</p>	<p>The boundaries of the RZWP-3-K planning area as referred to in paragraph (1) letter a, RZ KSN as referred to in paragraph (1) letter b, and RZ KSNT as referred to in paragraph (1) letter c shall be stipulated by the Central Government.</p>
Paragraph (3)	<p>Regional Governments are required to prepare all plans as referred to in paragraph 1) by their respective authorities</p>	<p>The validity period of the plan for the Management of the Coastal Zone and Small Islands as referred to in paragraph (1) is 20 (twenty) years and can be reviewed every 5 (five) years.</p>
Paragraph (4)	<p>The Regional Government prepares a plan for the Management of Coastal Zone and Small Islands by involving the community based on the norms, standards, and guidelines as referred to in paragraph (2)</p>	<p>The review of the planning for the Management of Coastal Zone and Small Islands as referred to in paragraph (3) can be carried out more than 1 ( ) time in a period of 5 (five) years if there is a change in the strategic environment in the form of:</p> <ul style="list-style-type: none"><li>a. natural disasters stipulated by laws and regulations;</li><li>b. changes to the state's territorial boundaries stipulated by law;</li><li>c. changes to regional boundaries stipulated by law; and</li><li>d. strategic changes in national policy.</li></ul>
Paragraph (5)	<p>Regency/City Regional Governments prepare</p>	

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detailed Zoning Plans for each particular Coastal Zone and Small Islands Zone within their territory

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*Source: Act No. 6 of, 2023.*

Changes to Articles like 7 above indicate changes that have a fundamental impact on the management of coastal areas in Indonesia. Creating a new norm in the form of a transfer of authority related to the determination of zoning planning which previously existed at the Regional Government becomes the authority of the Central Government. And there are changes to other articles in the Law on the Management of Coastal Areas and Small Islands, at least 15 articles have been amended, 13 original articles have been deleted and 9 new articles added.<sup>9</sup>

The authority of the Provincial Regional Government in managing coastal areas and small islands is granted by the Regional Government Law. However, in the change in the regulation of this authority, only the Law on the Management of Coastal Zone and Small Islands has changed. But, In the *Ciptaker* Law, there is 1 Article that indicates that there must be alignment, namely in Article 402A which stipulates that "The distribution of concurrent government affairs between the Central Government and Provincial Regions and City-Regency Regions as stated in the Appendix to Act No. 23 of 2014 concerning Regional Government as amended finally with Act No. 9 of 2015 concerning the Second Amendment to Act No. 23 of 2014 concerning Regional Government it must be read and interpreted by the provisions stipulated in the *Ciptaker* Law. Thus, the regulations regarding the utilization and management of aquatic resources in the WP3K that are currently being followed are those contained in the *Ciptaker* Law.

### **3.2. Legal Implications Changes in regulation of WP3K management authority.**

Indonesia adheres to the concept of a unitary state. This can be seen in the goals of the state contained "in the Preamble of the 1945 Constitution of the Republic of Indonesia, one of which is to promote public welfare." Other state objectives are contained in "the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia which is then elaborated in the body of the 1945 Constitution of the Republic of Indonesia". The elaboration of the state's goal to "promote public welfare, one of which can be seen in Article 33 paragraph (3) of the 1945

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9 Ekatjahjana, Widodo, Yunan Hilmy, dan Erna Priliarsari. Analisis Dan Evaluasi Hukum Mengenai Kelautan (Dampak Perubahan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja), Jakarta, Pusat Analisis Dan Evaluasi Hukum Nasional Badan Pembinaan Hukum Nasional Kementerian Hukum Dan HAM RI, 2021, p. 15.

Constitution of the Republic of Indonesia which reads Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." It is within this frame of mind that the utilization and management of aquatic resources in WP3K should be interpreted.

The formation of the *Ciptaker* Law which renewed regulations regarding the utilization and management of aquatic resources in WP3K laid the foundation for its formation in Article 33 of the 1945 Constitution of the Republic of Indonesia. The existence of Article 33 of the 1945 Constitution of the Republic of Indonesia can be seen in the legal basis for its formation in the "Remembering" section. The inclusion of the quo article in the legal basis for the formation of the *Ciptaker* Law shows the presence of the state to realize the state's goal of advancing public welfare, especially in the economic field as stipulated in "Article 33 of the 1945 Constitution of the Republic of Indonesia through the establishment of laws and regulations".

Utilization and management of aquatic resources in wp3k are one of the contents regulated in the *Ciptaker* Law. After experiencing various regulatory developments in the previous laws and regulations as described above, with the existence of the *Ciptaker* Law, regulations on the utilization and management of aquatic resources in Wp3k are again experiencing developments.

One of the obvious developments in the regulation regarding the utilization and management of aquatic resources in wp3k is regarding the basis for utilization rights and management of aquatic resources in wp3k. The basis for the utilization and management of aquatic resources in the wp3k has undergone several developments related to the nomenclature and the party issuing it. This development can be seen from the laws and regulations that regulate it, namely "Act No. 27 of 2007 concerning Management of WP3K, Act No. 1 of 2014 concerning Amendments to Act No. 27 of 2007 concerning Management of WP3K, and the last one in the *Ciptaker* Law".

The development of arrangements regarding the basis of utilization rights and the management of aquatic resources in WP3K can be briefly seen in the following table:

Table 2.

The Change	Act No. 27 Of 2007	Act No. 1 Of 2014	Act No. 6 Of 2023
licensing	Coastal Waters Concession Rights	Location Permit and Management Permit	Business Licensing
authorized	Ministers, governors and	Minister, Governor,	Central

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institution	mayors according to their authority	according to their government authority
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Initially, in the Wp3k Management Act No. 27 of 2007, the basis for the right to use and manage water resources was "Coastal Water Concession Rights (HP-3). HP-3 is rights over certain parts of coastal waters for marine and fisheries businesses, as well as other businesses related to the utilization of Coastal Resources and Small Islands which includes above sea level, water column up to seabed surface within the area limit certain". "HP-3 can be given to individuals who are Indonesian citizens, legal entities established under Indonesian law or indigenous peoples. HP-3 is given for a period of 20 years and can be extended for the first stage for a maximum of 20 years and can be extended again after according to laws and regulations. "Article 50 of Act No. 27 of 2007 concerning Management of WP3K" divides the authority to grant HP-3 as follows:

- a. "The Minister has the authority to issue HP-3 in cross-provincial Coastal Waters areas and Certain National Strategic Areas,
- b. The Governor has the authority to grant HP-3 in Coastal Waters up to 12 (twelve) nautical miles measured from the coastline towards the high seas and/or towards archipelagic waters, and Coastal Waters across districts/cities,
- c. The regent/mayor has the authority to issue HP-3 in the Coastal Waters area of 1/3 (one-third) of the province's jurisdiction."

The permits referred to in the Coastal Waters Exploitation Permit are in the realm of administrative law, different from the forms of rights in HP-3 which are in the realm of civil law. This instrument based on rights in the form of permits was ultimately used in "Act No. 1 of 2014 Concerning Amendments to Act No. 27 of 2007 concerning WP3K Management and is also maintained in the *Ciptaker Law*".

In Act No. 1 of 2014, two basic rights must be owned to be able to carry out water resource utilization and management activities in WP3K, namely "Location Permit and Management Permit, Location Permit is the basis for granting Management Permits". Location permits are determined based on the WP3K zoning plan. The Central Government (Minister) has the authority to "grant and withdraw Location Permits and Management Permits in the area of Coastal Waters and small islands across provinces, National Strategic Areas (KSN), Certain National Strategic Areas (KSNT), and National Conservation Areas (KKN)". Meanwhile, regional heads have the authority to "grant and revoke Location Permits and Management Permits in wp3k according to their authority"

The real difference in the *Ciptaker* Law regarding licensing for the utilization and management of aquatic resources in wp3k is in the mechanism for licensing the utilization and management of aquatic resources. The provisions in the *Ciptaker* Law carry the idea of simplifying business licensing to support the investment climate in Indonesia. In addition, the simplification of the licensing mechanism is also accompanied by the promotion of the concept of risk-based licensing (Risk-Based Approach). The concept of risk-based licensing means that the issuance of permits is carried out based on the calculation of the hazard level value for health, safety, environmental, and/or safety aspects. The simplification of licensing for the exploitation of coastal waters was then carried out in the *Ciptaker* Law.<sup>10</sup> By maintaining form of a permit, to be able to carry out business activities at wp3k, you must have a Business Permit. The simplification of the permit form in the form of Business Permits is an example of deregulation. Deregulation is the elimination of various laws and regulations that are seen as excessive.<sup>11</sup>

The Location Permit and Management Permit which were previously the basis for the utilization and management of aquatic resources in Wp3k are no longer valid in the *Ciptaker* Law. The basis for utilization rights and management of aquatic resources in the Wp3k used in the *Ciptaker* Law is business licensing. The party issuing the Business Permit is the Central Government. This is regulated in the amendment to "Article 16 paragraph (2) of Act No. 27 of 2007 contained in Article 18 number 11 of the *Ciptaker* Law" which reads "Every person who makes use of the space of the Coastal Waters as referred to in paragraph (1) must fulfill Business Licensing related to utilization at sea from the Central Government." From the sound of the amendment to a quo article, it can be seen that the mechanism for permitting the utilization and management of aquatic resources in the Wp3k in the *Ciptaker* Law is regulated by the Central Government. This has implications for reducing the portion of authority possessed by the Regional Government in licensing the utilization and management of aquatic resources in wp3k.

#### **4. Conclusion**

Changes in the basis for utilization rights and management of aquatic resources in wp3k in line with changes in the laws and regulations that regulate them as described above have resulted in a significant shift in legal implications. At the beginning of the arrangement in "Act No. 27 of 2007 concerning Management of WP3K on utilization rights and management of aquatic resources in the WP3K in the

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10 Fitri Yanni Dewi Siregar, "Aspek Hukum Penyederhanaan Badan Usaha di Bidang Lingkungan Hidup dalam Undang-Undang Cipta Kerja, *Jurnal Ilmiah Penegakan Hukum*, Vol. 7, No. 2, 2020, p. 3.

11 Ridwan HR, *Hukum Administrasi Negara*, Jakarta, Rajawali Pers, 2014, p. 44.

form of rights". The basis for the utilization and management of water resources in the form of this right is in the realm of civil law where the basis for the use and management of water resources in WP3K in the form of HP-3 is a material right. This licensing mechanism is well maintained in "Act No. 1 of 2014 Concerning Amendments to Act No. 27 of 2007 concerning Management of WP3K as well as in the *Ciptaker Law*" which also changed several provisions regarding the utilization and management of aquatic resources in WP3K. Changes can also be seen related to the authority to manage water resources in WP3K owned by the Central Government and Regional Governments, both Provincial Governments and Regency/City Regional Governments. If the law on local government at first (UU No. 32 of 2004) stated "Regency/City Governments still have the authority to issue permits for WP3K management," in subsequent laws, the portion of Regency/City Government authority has diminished. Even in the *Ciptaker Law*, the portion of authority for regional governments, both the Provincial Government and Regency/City Regional Government, has been drastically reduced. The authority to issue Business Permits in the management and utilization of water resources in WP3K belongs to the Central Government. This of course has implications in the form of changes to the licensing mechanism flow in the management and utilization of aquatic resources in WP3k.

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