

OPTIMIZATION OF BUSINESS LICENSES IN THE ERA OF DISRUPTION WITH THE ONLINE SINGLE SUBMISSION (OSS) SYSTEM

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Indonesia is the Unitary State of the Republic of Indonesia which is based on law. The concept of a state of law is contained in Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia which reads: The State of Indonesia is a state of law. The consequence of this article is that every action, whether it's an act of a citizen, or an act of a state administrator (government) must be based on law and must not conflict with the applicable positive law (ius constitutum).¹ A rule of law is identical to the concept of a welfare state and a welfare state can only be achieved by enforcing the rule of law and sustainable development carried out by the government.

The meaning of development is a set of human efforts to direct social and cultural change in accordance with the objectives of the life of the nation and state, namely to achieve the growth of civilization of social and cultural life on the basis of the targets that have been implemented. Peter L. Berger expressed his opinion that basically development is a problem faced by mankind today. A reality that actually exists, there is no life of a nation that does not face any problems at all, such as problems: hunger, disease, high mortality, ignorance, underdevelopment, need for housing, and the lack of availability of jobs. Thus, development is a problem for public policy makers, who in this capacity are the government.²

One form of development in the current era of disruption in the economic field is the business licensing process, which was previously still being processed through a manual system, but now it has developed into an on-line system. The goal of development in the economic field is usually to lead to prosperity. Licensing is an instrument of government/Local Government (Pemda) policy to control negative externalities that may be caused by social and economic activities. Permits are also instruments for legal protection of ownership or operation of activities. As an instrument for controlling permits, it requires clear rationality and is stated in the form of government policy as a reference. Without rationality and clear policy design, licensing will lose its meaning as an instrument to defend the interests of cooperatives for actions based on individual actions.³

According to Ateng Syafrudin, permits are aimed at and mean removing obstacles, things that are prohibited become permissible.⁴ According to N.M. Spelt and J.B.J.M ten Berge define permission in the broad and narrow sense as follows:⁵

“A permit is an agreement from the authorities based on laws or government regulations to deviate from the provisions of the prohibition in certain circumstances. Permits are bindings to a permit regulation which are generally based on the desire of the legislator to achieve a certain order or to prevent bad conditions. Permits can also be interpreted as dispensation or release or release from a prohibition. one form of implementing the regulatory and controlling functions owned by the government over the activities carried out by the community. Licensing can be in the form of registration, recommendation, certification, determination of quotas and permits to carry out a business which usually must be owned or obtained by a company organization or a person before the person concerned can carry out an activity or action.

The definition of a permit is a juridical instrument based on certain laws and regulations, procedures, and requirements used by the government to influence citizens to want to follow the recommended method in order to achieve a concrete goal. Basically, a permit is a decision of an authorized official or State Administration agency.⁶

Considering the importance of the business licensing process in the business world, the business licensing

1 Munir Fuady, *Teori Negara Hukum Modern (Rechtstaat)*. Bandung: Refika Aditama. 2009, Hal. 3

2 Elly M. Setiadi dan Usman Kolip, *Pengantar Sosiologi: Pemahaman Fakta Dan Gejala Sosial: Teori, Aplikasi, Dan Pemecahannya*. Jakarta: Kencana, 2011, hal 677.

3 Adrian Sutedi, *Hukum Perizinan: Dalam Sektor Pelayanan Publik*, Jakarta: Sinar Grafika, 2010, hal 5.

4 *Ibid.*

5 *Ibid.*

6 *Ibid.*, hlm. 173

procedure is made as easy as possible, considering that entrepreneurs are usually those who don't have much time to take care of licensing which takes a long time. Licensing instruments that are too tight are not impossible to encourage informal activities in the economy, or what is often called the black market economy, but permits that are too loose will also lead to high social costs that must be borne by the community such as congestion, environmental damage, economic malaise, inflation, and pollution as a result of uncontrolled market activity. Therefore, a licensing mechanism must consider the balance between the interests of the government/local government and the interests of cooperatives as well as the interests of individuals who accelerate economic activity.⁷

Currently, Indonesia has implemented an Online Single Submission system for the entire business licensing process. From the Company Registration Certificate (TDP), which previously had to be managed manually, it has now been replaced in the form of a Business Identification Number (NIB), Business Permit, Location Permit, Location Permit, Construction Services Business Permit and others that can be accessed via on line. However, according to the author, this online system has not been fully completed online because there is still one requirement that must be done manually by signing the relevant agency, namely the fulfillment of the commitment. Fulfillment of this commitment is an obligation that must be carried out by business actors so that the licenses issued by the OSS system can be effective. According to the author, it is necessary to optimize the implementation of the OSS system in the business licensing process.

1. WRITING METHOD

This research is a normative legal research. Normative legal research is research that discusses legal aspects, by conducting library research that is oriented towards applicable laws and regulations.¹⁵ This normative legal research uses a legal approach that is relevant to this legal research.¹⁶ The data were analyzed using a qualitative approach. The method used is to analyze the laws and regulations related to this research. Data were collected using library research methods by collecting literature such as law books, journals, articles, and statutory provisions related to this research.

2. RESEARCH RESULTS AND DISCUSSION

a. OSS Implementation in Indonesia

An effective public policy will be measured by how much the policy can be realized and provide solutions to various public problems that are currently happening. This means that public services are a follow-up to the implementation of policies that are in direct contact with the problems and interests of the community. In the development of contemporary public policy concepts emphasize the need for action from the government. Therefore, in the contemporary paradigm, public policy is driven by the real attitude of the government. This attitude will open up opportunities for public service programs.

The establishment of the OSS system aims to provide good public services. The existence of OSS is very helpful for the business community in obtaining permits. The existence of OSS will certainly change the view of the business community who have been of the view that taking care of licensing is a complicated and very long process, the convenience offered by OSS will certainly increase public awareness and concern about the importance of licensing and prevent the occurrence of business activities that do not have permits. When viewed from an economic point of view, the more community business actors take care of licensing, the more State revenue generated by the licensing sector will increase. However, in its development, difficulties were found in the implementation of OSS, for example: there are still many regions whose one-stop licensing system is not yet connected to OSS.

This is considering that based on Article 25 paragraph (4) of Law Number 25 of 2007 concerning Investment, investment companies that will carry out business and/or activities are required to obtain a permit in accordance with the provisions of the legislation from the agency that has the authority, unless

⁷ *Ibid.*

specified otherwise 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. PTSP services at the Central Government and Regional Governments are refined to be more efficient, serving, and modern. One of the most significant is the provision of an Electronically Integrated Business Licensing Service (OSS). Through the OSS, Business Actor registers and manages the issuance of Business Permits and the issuance of Commercial and/or Operational Permits in an integrated manner. Through the OSS, the Central Government and Regional Governments issue Business Permits submitted by Business Actors.⁸ Based on the considerations above, the government feels it is necessary to stipulate a Government Regulation concerning Electronically Integrated Business Licensing Services.

Based on this desire, Government Regulation Number 24 of 2018 concerning Integrated Electronic Business Licensing Services was issued which regulates provisions regarding:⁹

- 1) Type, Applicant, and Issuer of Business Licensing;
- 2) Implementation of Business Licensing;
- 3) Sector Business Licensing Reform;
- 4) OSS System;
- 5) OSS Institution;
- 6) OSS Funding;
- 7) Incentives or Disincentives for implementing Business Licensing through OSS;
- 8) Resolution of problems and obstacles to Business Licensing through OSS; and
- 9) Sanctions.

The following is the process for applying for a business license on the Online Single Submission (OSS) system as follows:

- 1) Create a user-ID using email; Registration Form is the data in charge of the Business Entity/Company. Especially for Business Entities/Companies, it is recommended to use company email for account activation. The OSS system will send 2 (two) emails to the Business Entity for registration and verification of the OSS account. The verification email contains a temporary user-ID and password that can be used to log-in the OSS.24 system;
- 2) Log-in to the OSS system using the user-ID;
- 3) Fill in the data to obtain a Business Identification Number (NIB);
- 4) For new businesses: carry out the process to obtain basic permits, business licenses and/or commercial or operational permits, along with the commitments. Meanwhile, businesses that have been established must continue the process of obtaining new business licenses (business and/or commercial permits) that are not yet owned, extending existing business licenses, developing businesses, changing and/updating company data.

The main prerequisite that needs to be met before accessing OSS is¹⁰ the Education Identification Number (NIK). User-ID creation must use a medium NIK, especially for business actors in the form of business entities, the Population Identification Number (NIK) required is the NIK of the Person in Charge of the Business Entity:

- i. Business entities in the form of PT, business entities established in the form of cooperatives, CVs, firms, and civil partnerships complete the legalization process for business entities at the Ministry of Law and Human Rights through AHU Online, before accessing OSS;
- ii. Those in charge of the agency include the following:
 - Limited Liability Company usually the person in charge is the Board of Directors;
 - Limited partnerships are usually in charge of Active Allies (Managers);

8 Penjelasan Peraturan Pemerintah Nomor 24 Tahun 2018

9 *Ibid.*

10 *Ibid.*

- Firms and Trading Businesses (UD) are usually the founders in charge.

iii. Business actors in the form of Perum, Perumda, other legal entities owned by the state, public service agencies or broadcasting institutions prepare the legal basis for establishing a business entity.

The OSS system is very useful for business actors. The benefits of OSS received by business actors include the following:¹¹

- 1) Facilitate the management of various business licenses, both prerequisites for doing business (permits related to location, environment, and buildings), business permits, and operational permits for business operations at the central or regional level with a mechanism for fulfilling the permit requirements commitments;
- 2) Facilitating business actors to connect with all stakeholders and obtain permits safely, quickly and in real time;
- 3) Facilitating business actors in reporting and solving licensing problems in one place;
- 4) Facilitating business actors to store licensing data in one business identity (NIB).

Before entering this OSS system, legal entities and/or business entities must ratify their bodies before a Notary by making

deed of establishment and/or amendment of deed which is accessed through online AHU. Especially for public companies, regional public companies, other legal entities owned by the state, public broadcasting institutions, or public service bodies using the legal basis for formation, government regulations or regional regulations. The Business Entity then registers in the OSS system by entering the Population Identification Number (NIK) of the Person in Charge of the Business Entity or the President Director and some other information on the available Registration Form. In the event that the process of establishing a body is carried out by an authorized official, namely a Notary, while the licensing process is carried out by the Business Actors themselves or carried out by other parties such as Legal Consultants and Notaries.

After the OSS application process is complete, a Business Identification Number (NIB) will be issued which serves as the identity of the Business Actor which is issued by the OSS Institution after the Business Actor registers. NIB also applies as:¹²

- 1) Company Registration Certificate (TDP);
- 2) Import Identification Number (API), if the business actor intends to carry out import activities;
- 3) Customs Access, if business actors will carry out export and/or import activities.

NIB must be owned by business actors who want to take care of business licensing through OSS, both new businesses and businesses that have been established before the operation of OSS. Business actors can obtain Other Registration documents during NIB registration, namely:¹³

- 1) Entity or Individual NPWP, if the business actor does not have one;
- 2) Letter of Approval of the Plan to Use Foreign Workers (RPTKA);
- 3) Proof of BPJS Employment and Health BPJS membership registration;
- 4) Notification of eligibility to obtain fiscal facilities and/or
- 5) Business Permits, for example for Business Permits in the Trade sector (Trade Business Permits (SIUP)).

b. Optimization of Business Permits in the Era of Disruption With Online Single Submission (OSS) System

11 *Ibid.*
12 *Ibid.*
13 *Ibid.*

Public policy and public services are two important variables in contemporary public administration that have a high causality relationship, cannot be separated even though their functions can be distinguished. Good service must start from public policy so that it has a clear legal basis to prevent irregularities. On the other hand, public policy must have a service orientation so that it is not just a formal provision on paper without giving meaning to people's lives. All errors and irregularities in the practice of government administration are caused by the incompatibility of these two variables, namely public policy and public services, often public services that have high dynamics are not followed by public policies that tend to be slow, especially when political interests are too carried away.¹⁴

In the context of accelerating and increasing investment and business, the Business Licensing issued by the ministry/institution and the Regional Government to start, implement, and develop businesses and/or activities, needs 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. The restructuring of the service system was carried out especially in the One Stop Integrated Service (PTSP). The current practice of implementing OSS after the issuance of the NIB and Online Business Permit, then Business actors are required to fulfill commitments. The Commitment Fulfillment Process (outside OSS) includes the following:

1. After obtaining a commercial license based on a commitment, the business actor completes the fulfillment of the commitment to PTSP or each issuer according to the authority. including payment of local taxes/levies, if required;
2. PTSP or the issuer in accordance with the authority to evaluate the licensing requirements in question, and subsequently approve or reject, which at least contains the Number, Date, validity period; and the signatory official who approves or refuses to grant the business license.

STANDAR OPERASIONAL PROSEDUR PEMENUHAN KOMITMEN ATAS IZIN YANG DITERBITKAN LEMBAGA ONLINE SINGLE SUBMISSION (OSS) MELALUI APLIKASI SICANTIK CLOUD

No	Kegiatan	PELAKSANA										BAKU MUTU		
		Pemohon	FO/Petugas Loker 2	BO/Analis Dokumen Perizinan	Kepala Seksi Perizinan	Kepala Bidang Perizinan Terkait	Kepala Dinas	FO/Petugas Loker 4	Admin OSS	Lembaga OSS	FO/Petugas Loker 5	Kelengkapan	Waktu	Output
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.	Pemohon mengakses formulir permohonan melalui website : http://dpmptsp.karimunkab.go.id sesuai dengan izin usaha yang dimohonkan	↓	Tidak	Tidak								Komputer, Jaringan Internet	5 menit	User ID Pemohon
2.	Pemohon melakukan registrasi pendaftaran dengan cara membuat user-ID pada aplikasi siCantik Cloud melalui website : http://sicantikui.layanan.go.id	↓	↓									Soft Copy Persyaratan Perizinan	15 menit	Surat Permohonan Perizinan
3.	Mengisi formulir permohonan sesuai dengan izin melalui website : http://sicantikui.layanan.go.id	↓	Ya									Komputer, Jaringan Internet	10 menit	Surat Permohonan Perizinan
4.	Pemohon mengunggah seluruh persyaratan atau mengirim email ke Loker Pendaftaran dengan email : pendaftaranptspkarimunkab.go.id	↓	Ya	↓								Komputer, Jaringan Internet	5 menit	Berkas permohonan terdokumentasi
5.	Petugas Front Office (Loker Pendaftaran) menerima dan melakukan verifikasi, apabila persyaratan izin lengkap, petugas Front Office membuat tanda terima pendaftaran		↓	↓								Komputer, Jaringan Internet	5 menit	Berkas permohonan terdokumentasi
6.	Petugas Back Office (Analis Dokumen Perizinan) melakukan entri data dan verifikasi berkas permohonan izin, apabila lengkap dan benar diteruskan ke Kepala Seksi Perizinan			↓								Komputer, Jaringan Internet dan Hasil Analisa	5 menit	Dilakukan / atau Peninjauan Lokasi
7.	Kepala Seksi Perizinan melakukan verifikasi keabsahan berkas, apabila berkas persyaratan dinyatakan lengkap dan benar, Kepala Seksi Perizinan melakukan validasi izin dan diteruskan ke Kepala Bidang serta mencetak Nota Dinas				↓							Daftar Ceklis Perizinan	5 menit	Draft Nota Dinas Perizinan
8.	Apabila sesuai dan memenuhi persyaratan Kepala Bidang melakukan validasi izin untuk diteruskan kepada Kepala Dinas				↓							Nota Dinas dan Perizinan	5 menit	Nota Dinas Persetujuan
9.	Kepala Dinas menetapkan dan menandatangani Persetujuan/ Penolakan Pemenuhan Komitmen dengan tanda tangan elektronik (digital signature)					↓						Surat Persetujuan/ Penolakan Pemenuhan Komitmen	5 menit	Surat Persetujuan/ Penolakan Pemenuhan Komitmen
10.	Petugas Front Office (Loker Pengambilan dan Legalisasi Perizinan) mencetak Persetujuan/ Penolakan Pemenuhan Komitmen dan meneruskan ke petugas Admin OSS						↓					Surat Persetujuan/ Penolakan Pemenuhan Komitmen	5 menit	Surat Persetujuan/ Penolakan Pemenuhan Komitmen
11.	DPMPTSP Kabupaten Karimun menyampaikan persetujuan pemenuhan komitmen atau penolakan pemenuhan komitmen kepada lembaga OSS							↓				Surat Persetujuan/ Penolakan Pemenuhan Komitmen	5 menit	Notifikasi
12.	Pemohon menerima notifikasi pemenuhan komitmen dari lembaga OSS								↓			Surat Persetujuan/ Penolakan Pemenuhan Komitmen	5 menit	Notifikasi melalui Pemohon
13.	Pemohon dapat mengambil Persetujuan/ Penolakan Pemenuhan Komitmen yang sudah terbit dengan terlebih dahulu mengisi Survei Kepuasan Masyarakat (SKM) di Front Office (Loker Pengaduan)									↓		Surat Persetujuan/ Penolakan Pemenuhan Komitmen	5 menit	Survei Kepuasan Masyarakat (SKM)
14.	Petugas Front Office (Loker Pengambilan dan Legalisasi Perizinan) menyerahkan Persetujuan/ Penolakan Pemenuhan Komitmen kepada Pemohon (hardcopy/softcopy)										↓	Surat Persetujuan/ Penolakan Pemenuhan Komitmen	5 menit	Surat Persetujuan/ Penolakan Pemenuhan Komitmen

The following is the standard operating procedure for Fulfillment of Commitments for several Licenses Issued by the OSS Institution through the Si Cantik Cloud Application:

If the fulfillment of this commitment is carried out by business actors, the permit can be revoked. One of the licensing requirements that must be fulfilled is a commercial or operational permit. Business

14 Budiman Rusli, Kebijakan Publik: Membangun Pelayanan Publik Yang Responsif. Cimahi Bandung: Hakim Publishing, 2013, hal 3-4.

actors are not only required to have a business license, in certain business fields business actors are also required to have a commercial or operational license. Both permits are intended for business actors so that business actors can carry out commercial or operational activities. The operational or commercial license is effective if the business actor fulfills the requirements and/or commitments.

Commercial or operational permit is a permit issued by the OSS Institution for and on behalf of the minister, head of the institution, governor, or regent/mayor after the Business Actor has obtained the Business Permit and to carry out commercial or operational activities by fulfilling the requirements and/or commitments. Commercial or operational licenses are issued by the OSS Institution based on commitments according to the line of business being carried out so that goods or services have standards, certificates, and/or licenses to be produced or traded in Indonesia.

Fulfilling the commitment to the operational license or commitment, it is hoped that business actors will be able to adjust the production standards set by the relevant institutions so that these products can be monitored and able to compete. For example, if the business sector is run by a business actor in the mining construction sector, the business actor must have an operational or commercial license issued by the OSS Institution. The operational or commercial license can be effective if the business actor fulfills the commitment in this case is the Mining Services Business license.

Even though an operational or commercial permit is issued by the OSS Institution, in fulfilling the commitment, it must relate to the relevant institution according to the field being carried out. It can be interpreted that operational licenses and commitments cannot stand alone without the fulfillment of commitments from related institutions according to the line of business being carried out. The implementation of the authority as intended is carried out in coordination with the ministers, heads of institutions, governors, and/or regents/mayors, facilitated by the coordinating minister who carries out government affairs in the economic sector.¹⁵

Business Actors who do not fulfill their commitments in carrying out their business may be subject to sanctions. These sanctions can be seen in the provisions governing certain business fields. For example, companies in the field of cosmetic import trade, business actors can be subject to criminal sanctions if they do not have a cosmetic distribution permit, the distribution permit is one of the fulfillment of commitments to obtain commercial and operational permits.

There are also several things that must be met, including the registration of goods or services as well as customs and taxation registration. In other words, everything related to operational licenses or commercial permits has been regulated in detail in the OSS system. Business actors only need to follow this rule so that business actors get certainty in terms of legality and business certainty. The OSS Institution can also cancel the Business License that has been issued in the event that the Business Actor does not complete the fulfillment of the Commitment in the commercial or operational license. The following is the implementation of registration on the corresponding OSS system:¹⁶

1. Registration is done by accessing the OSS page and filling in the required data;
2. The OSS Institution issues a Business Identification Number (NIB) which is a business identity and is used by business actors to obtain business licenses and commercial or operational permits, including to fulfill the requirements for business licenses and commercial or operational permits;
3. Business actors take care of operational and commercial license commitments to related institutions or those that issue commitments in accordance with the line of business being carried out;

15 BP Lawyers Counselors At Law, *Hindari Pencabutan Izin Usaha, Pelaku Usaha Harus Melakukan Pemenuhan Komitmen Dalam Izin Komersial Atau Operasional*, <https://bplawyers.co.id/2020/09/14/hindari-pencabutan-izin-usaha-pelaku-usaha-harus-melakukan-pemenuhan-komitmen-dalam-izin-komersial-atau-operasional/>, Posted on 14 September 2020, Retrieved 6 November 2021.

16 Ibid.

4. The commercial or operational license is effective after the business actor completes the commitment and pays the business licensing fee in accordance with the provisions of the legislation.

4. CONCLUSION

The establishment of the OSS system aims to provide good public services. The existence of OSS is very helpful for the business community in obtaining permits. The existence of OSS will certainly change the view of the business community who have been of the view that taking care of licensing is a complicated and very long process, the convenience offered by OSS will certainly increase public awareness and concern about the importance of licensing and prevent the occurrence of business activities that do not have permits.

The main prerequisite that needs to be met before accessing OSS is¹⁷ the Education Identification Number (NIK). User-ID creation must use a medium-sized NIK, especially for business actors in the form of business entities, the Population Identification Number (NIK) required is the NIK of the Person in Charge of the Business Entity.

In the context of accelerating and increasing investment and business, the Business Licensing issued by the ministry/institution and the Regional Government to start, implement, and develop businesses and/or activities, needs to be reorganized so that they become supporters and not vice versa become obstacles to business development and/or activities. activity. Restructuring is carried out on the service system and regulations in accordance with the demands of the business world, technological developments, and global competition. The restructuring of the service system was carried out especially in the One Stop Integrated Service (PTSP). The current practice of implementing OSS after the issuance of NIB and Online Business Permits, then Business actors are required to fulfill commitments, especially commercial permits and operational permits.

5. SUGGESTIONS

In the context of accelerating and increasing investment and business, the Business Licensing issued by the ministry/institution and the Regional Government to start, implement, and develop businesses and/or activities, needs to be reorganized so that they become supporters and not vice versa become obstacles to business development and/or activities. activity. After the issuance of the NIB and Online Business Permit, then Business actors are required to fulfill commitments. Fulfillment of commitments is still done manually even though the registration is done online. In the future, it is hoped that there will be an optimization of fulfilling commitments online, so that business actors do not need to come to the relevant Office, but simply input data on the website and payments are made online using a Billing Code.

6. REFERENCES

Adrian Sutedi, *Hukum Perizinan: Dalam Sektor Pelayanan Publik*, Jakarta: Sinar Grafika, 2010.

Budiman Rusli, *Kebijakan Publik: Membangun Pelayanan Publik Yang Responsif*. Cimahi Bandung: Hakim Publishing. 2013.

Elly M. Setiadi dan Usman Kolip, *Pengantar Sosiologi: Pemahaman Fakta Dan Gejala Sosial: Teori, Aplikasi, Dan Pemecahannya*. Jakarta: Kencana, 2011.

Munir Fuady, *Teori Negara Hukum Modern (Rechtstaat)*. Bandung: Refika Aditama. 2009.

1945 Constitution of the Republic of Indonesia.

Government Regulation Number 24 of 2018.

BP Lawyers Counselors At Law, Avoid Revocation of Business Licenses, Business Actors Must Fulfill Commit-

17 Ibid.