

## Business Licensing in the Regions in the Context of Supporting Investment Ease

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**Abstract.** *Implementation of Business Licensing in the Regions is carried out based on Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing and Government Regulation Number 6 of 2021 concerning Regional Business Permits. Implementation of Business Licensing services in the regions must use the Electronically Integrated Business Licensing System (Online Single Submission) managed by the Central Government as of the Electronically Integrated Business Licensing System (Online Single Submission). Regional Governments can develop a support system for the implementation of the Electronic Integrated Business Licensing System (Online Single Submission) in accordance with the norms, standards, procedures and criteria set by the Central Government.*

**Keywords:** *Business; Investment; Licensing; Regional.*

### 1. Introduction

The main role of the state in every constitution or Constitution is to realize the ideals of the nation itself, and the ideals of the Indonesian nation are listed in the 1945 Constitution of the Republic of Indonesia as the basis for the constitution of the Republic of Indonesia, both before and after being amended. , has a strong passion to realize the welfare of all Indonesian citizens and to form a welfare state.

The State of Indonesia has shown its desire to form a welfare state as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia, namely: "To form an Indonesian state government that protects the entire Indonesian nation and all of Indonesia's bloodshed, and to promote public welfare, educate

life nation, and participate in carrying out world order based on freedom, eternal peace and social justice”<sup>1</sup>.

The promulgation of Law Number 23 of 2014 concerning Regional Government as amended several times, most recently by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, is a refinement of the implementation of regional autonomy. As for what is meant by Regional Autonomy according to Article 1 number (5) of Law Number 23 of 2014 concerning Regional Government, namely: "The rights, authorities and obligations of an autonomous region to regulate and manage its own government affairs and the interests of the local community in accordance with laws and regulations invitation".

Sociologically, the implementation of regional autonomy in Indonesia can be seen as a strategy that has multiple objectives. First, the granting of regional autonomy is a strategy to respond to the demands of the local community for three main issues, namely sharing of power, distribution of income, and independence of the management system in the regions. Second, regional autonomy is intended as a strategy to strengthen the regional economy in order to strengthen the national economy to face the era of free trade<sup>2</sup>.

Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing and Government Regulation Number 6 of 2021 concerning Regional Business Permits, regulates the simplification of Business Permits through the implementation of Risk-Based Business Permits, which is a standard method based on the level of risk of a business activity in determining the type of business permit and Quality/Frequency of Supervision. Business Licensing and Supervision are instruments of the Central Government and Regional Governments in controlling a business activity.

According to the government, this is one of the strategies in order to encourage economic growth through increasing investment by reforming regulations in the field of business licensing. The reforms carried out are aimed at solving investment barriers, namely the long bureaucratic chain, overlapping regulations, and many regulations that are not harmonious, especially in central and regional regulations. Therefore, it is necessary to deregulate provisions regarding business licensing, investment requirements, employment, Micro, Small and Medium Enterprises, including Cooperatives, land acquisition, development of economic zones, implementation of government projects, as

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<sup>1</sup>CFG Sunaryati Hartono, 1991, *Legal Politics Towards One National Legal System*, Alumni, Bandung, p. 2.

<sup>2</sup>Mardiasmo, 2002, *Autonomy and Regional Financial Management*, Andi, Yogyakarta, p. 67.

well as provisions regarding government administration and the imposition of criminal sanctions regulated in various Constitution.

## **2. Research Methods**

The type of research used in the preparation of this journal is a type of qualitative descriptive research. The approach method used in the preparation of this journal is the normative juridical method. Types and sources of research data needed are secondary data. The data collection method used in compiling this journal is a literature study. The data analysis method used in this research is descriptive qualitative analysis.

## **3. Results and Discussion**

### **3.1. Arrangements for Business Licensing in the Regions**

The definition of permit based on Law Number 30 of 2014 in Article 1 point 19 states that a permit is a decision of an authorized government official as a form of approval for a citizen's application in accordance with statutory provisions. The definition of permit is also contained in Article 1 number 8 of the Regulation of the Minister of Home Affairs Number 20 of 2008 concerning Organizational Guidelines and Work Procedures of Integrated Licensing Service Units in the Regions. The provisions state that permits are documents issued by regional governments based on regional regulations or other regulations which are proof of legality, stating that a person or entity is legal or permissible to carry out a particular business or activity. The granting of the meaning of the permit indicates the existence of a written permit, namely in the form of a document, so that what is referred to as permission does not include those given verbally. Through permits, the government is involved in the activities of citizens. In this case the government directs its citizens through juridical instruments in the form of permits.

Based on Article 1 number 1 of Government Regulation Number 6 of 2021 concerning the Implementation of Business Licensing in the Regions, it is stated that the Implementation of Business Licensing in the Regions is a business licensing activity whose management process is electronic from the application stage to the issuance of documents which are carried out in an integrated manner in one door.

Licensing which has now been implemented by the government as a system that integrates all business licensing services which are the authority of Ministers/Heads of Institutions, Governors, or Regents/Mayors which are carried

out electronically. This statement is confirmed in Government Regulation Number 5 of 2021 in Article 22 paragraph (2) states that:<sup>3</sup>

"Issuance of Business Permits as referred to in paragraph (1) is carried out by: a) OSS Institutions; b) OSS Institution on behalf of the minister/head of institution; c) Head of the provincial DPMPTSP on behalf of the governor; d) Head of district/city DPMPTSP on behalf of the regent/mayor; e) KEK Administrator; and f) Head of the KPBPB Concession Board".

Risk-Based Business Licensing is a standard method based on the Risk level of a business activity in determining the type of Business Licensing and the quality/frequency of Supervision. Application of a Risk-based approach requires a change in mindset (change management) and adjustments to the work procedures for providing Business Licensing services (business process re-engineering) as well as re-designing business processes for Business Licensing in the electronic Business Licensing system. Through the application of this concept, the implementation of issuance of Business Licensing can be more effective and simpler because not all business activities are required to have a permit, besides that through the application of this concept Supervision activities become more structured both in terms of the period and substance that must be carried out Supervision.

Government Regulation Number 6 of 2021 concerning Business Licensing in the Regions which is a breakthrough to improve the investment ecosystem and business activities.

The implementation of Business Licensing in the Regions regulated in this Government Regulation includes:<sup>4</sup>

- a. authority to administer Business Licensing in the Regions;
- b. implementation of Business Licensing in the regions;
- c. Perda and Perkada regarding Business Licensing;
- d. reporting on the Implementation of Business Licensing in the Regions;
- e. guidance and supervision;

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<sup>3</sup> *Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing. Article 22 paragraph (2)*

<sup>4</sup>Article 2 Government Regulation Number 6 of 2021 Concerning the Implementation of Business Licensing in the Regions.

f. funding; And

g. administrative sanctions.

In order to strengthen the role of the Regional Government, it is regulated by the regent's obligation to provide Business Licensing services in accordance with the provisions of laws and regulations regarding the implementation of Risk-Based Business Licensing, Business Licensing services in the regions carried out by DPMPTSP must use the OSS System managed by the Central Government, and provide opportunities for Regional Governments to develop a support system for the implementation of the OSS System in accordance with the norms, standards, procedures and criteria stipulated by the Central Government

Arrangement of content material in Government Regulation Number 6 of 2021 concerning Business Licensing in the Regions as an effort to optimize the implementation of the Business Licensing policy in the regions and reinforce the provisions for granting administrative sanctions to regents who do not provide Business Licensing services or do not use the OSS System in accordance with statutory provisions invitation regarding the implementation of Risk-Based Business Licensing.

### **3.2. Business Licensing in the Regions in the framework of Supporting Investment Ease**

Local governments in the current era of regional autonomy play the role of spearheading investment inflows. The good and bad investment climate will be largely determined by local governments, so that economic growth will continue to increase in line with the policies and service systems provided to the community.<sup>5</sup> Licensing arrangements through a single submission pattern is an attractive incentive for investors and will have a positive correlation to the ease of doing business. This single submission model will reduce the risk of business interruption caused by the difficulty of obtaining permits<sup>6</sup>.

Every policy carried out in the administration of regional government must go through an assessment to find out the benefits that will be obtained from the implementation of the policy, as well as the potential impacts that arise as a consequence, including those related to the budget that must be issued by the

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<sup>5</sup> Fery Dona, 'Policies of the Government of Sukoharjo Regency in Creating a Conducive Investment Climate', *Al-Ahkam Journal of Syari'ah Science and Law*, 4.1 (2019) <<https://doi.org/10.22515/alahkam.v4i1.1548>>

<sup>6</sup> Rio Christiawan, 'Licensing Based on Online Single Submission to Create Ease of Doing Business', *Legal Issues*, 50.1 (2021), 60–69 <<https://doi.org/10.14710/mmh.50.1.2021.60-69>>

region. Without an assessment or analysis of this matter, it is feared that a policy that is implemented cannot be effective.

Regional Governments have a real responsibility related to the implementation of investment licensing in order to improve the economic climate and social welfare in line with state objectives. Sociologically, the regional government is expected to be able to meet the needs of the community in various aspects, including in this case business licensing.

Stipulation of regional regulations regarding the Implementation of Business Licensing as the implementation of the duties and obligations of the regional government in exercising their authority, will have implications in people's lives and have a direct impact on regional finances. Mainly has implications for the duties and functions of regional apparatuses related to the implementation of business licensing.

The implementation of business permits in the regions is carried out to improve the investment ecosystem and business activities in the regions. Improving the investment ecosystem and business activities includes:

- a. risk-based business licensing;
- b. basic requirements for business licensing; And
- c. sector business licensing and ease of investment requirements.

The Implementation of Business Licensing in the Regions is carried out by the Investment and One-Stop Services Office of Klaten Regency. Implementation of Business Licensing services in the regions must use the Electronically Integrated Business Licensing System (Online Single Submission) managed by the Central Government as of the Electronically Integrated Business Licensing System (Online Single Submission) becomes effective in accordance with the provisions of laws and regulations regarding the implementation of Business Licensing Risk Based. Regional Governments can develop a supporting system for the implementation of the Electronic Integrated Business Licensing System (Online Single Submission) in accordance with the norms, standards, procedures and criteria set by the Central Government.

The Investment and One-Stop Services Agency is expected to be able to organize business licensing management in a fast, easy, integrated, transparent, efficient, effective and accountable manner in accordance with the provisions of laws and regulations regarding the implementation of risk-based business licensing.

Judging from the theory of legal benefits, the provisions in Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing and Government Regulation Number 6 of 2021 concerning Regional Business Permits provide arrangements that provide benefits to the community in the form of simplifying business licensing in the regions.

#### **4. Conclusion**

Implementation of Business Licensing in the Regions as regulated in government regulation Number 5 of 2021 concerning Risk-Based Business Licensing and Government Regulation Number 6 of 2021 concerning Business Licensing in the regions are technical arrangements for implementation in order to improve the investment climate. Then evaluate and analyze the laws and regulations related to the implementation of pre-existing Business Licensing for integration.

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